

1 SACRAMENTO, CALIFORNIA, OCTOBER 20, 1999 - 9:30 A.M.

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3 CHAIRMAN EATON: Good morning, everyone,
4 and welcome to the October 20th meeting of the California
5 Integrated Waste Management Board.

6 Madam Secretary, will you please call the
7 roll.

8 BOARD SECRETARY: Board Members Jones.

9 BOARD MEMBER JONES: Here.

10 BOARD SECRETARY: Moulton-Patterson.

11 BOARD MEMBER MOULTON-PATTERSON: Here.

12 BOARD SECRETARY: Pennington.

13 BOARD MEMBER PENNINGTON: Here.

14 BOARD SECRETARY: Roberti.

15 BOARD MEMBER ROBERTI: Here.

16 BOARD SECRETARY: Chairman Eaton.

17 CHAIRMAN EATON: Here.

18 All right. We have a quorum established.

19 Okay. Members, ex parte communications. Before we begin,
20 I'll try and follow the procedure that we did in the past
21 weeks and I will read off what I've gotten, and if you
22 have any of those, that will suffice for the rest of your
23 obligation to report.

24 I have a letter from Lynn Rubinstein
25 regarding California Recycling Economic Information

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1 Project; Alyson Burleigh from Aurora Associates regarding
2 the October 26th and 27th Board meeting agenda; Michael
3 Yelton, City of Duarte, compliance order correspondence;
4 Mark Harmon, not the actor or ex-football player, from the
5 City of Claremont regarding the biennial review. He's
6 also on some doctor show, isn't he?

7 (Laughter)

8 BOARD MEMBER ROBERTI: Was like ten years
9 ago.

10 CHAIRMAN EATON: Was.

11 BOARD MEMBER PENNINGTON: I wouldn't know.
12 I'm always home studying my book.

13 (Laughter)

14 CHAIRMAN EATON: Please note that for the
15 record, Mr. Pennington, we can rely upon you for
16 everything today.

17 (Laughter)

18 BOARD MEMBER PENNINGTON: Absolutely.

19 CHAIRMAN EATON: Ken Duran regarding
20 biennial review; Michael Egan, City of Bellflower, AB 939
21 compliance; Scott Hanin regarding grass recycling; Michael
22 Pastrick also on grasscycling; Bob Nelson on Lionudakis,
23 an item that we'll be hearing shortly; Rick Best,
24 Californians Against Waste, regarding Item Number 32
25 today, which is the rigid plastic item; and Steve Lautze,

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1 L-a-u-t-z-e, regarding RMDZ Item Number 33.

2 Members, I'll start with my left.

3 Mr. Pennington, are there any additional items or ex
4 partes you need to report today?

5 BOARD MEMBER PENNINGTON: Yes,
6 Mr. Chairman. Thank you.

7 I met with Chuck White, George Larson, and
8 Joey Toney yesterday to discuss the tire monofill and tire
9 regs; and I have a letter from Rick Best of Californians
10 Against Waste that I received this morning on enforcement
11 of RPPC.

12 That does it for me.

13 CHAIRMAN EATON: Mr. Jones.

14 BOARD MEMBER JONES: Also the meeting this
15 morning with Chuck White, George Larson, and Joey Toney on
16 the regs; Michael Burne, TTR; Mike Mohajer, Donald Wolfe,
17 and Harry Stone from L.A. Public Works; Carl Atkinson on
18 waste tire facility permits; Ricardo Serrano,
19 environmental specialist from Fairfield on DMJ site; and
20 that's it.

21 CHAIRMAN EATON: Okay.

22 Ms. Moulton-Patterson.

23 BOARD MEMBER MOULTON-PATTERSON: Thank you,
24 Mr. Chair.

25 I had an E-mail from Bob Nelson regarding

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1 Lionudakis Recycling; a letter from Rick Best,
2 Californians Against Waste; and I also visited
3 Mr. Lionudakis's composting site and also met out there
4 with Evan Edgar.

5 And that's it, Mr. Chairman.

6 CHAIRMAN EATON: Okay.

7 Senator Roberti.

8 BOARD MEMBER ROBERTI: I don't believe I
9 have any.

10 CHAIRMAN EATON: You've been sequestered;
11 haven't you?

12 BOARD MEMBER ROBERTI: I've been
13 sequestered. I recommend jury duty for everybody.

14 CHAIRMAN EATON: All right.

15 For those of you who are new in the
16 audience, there are speaker request forms on the back
17 table. If you wish to address any item on today's agenda,
18 if you would kindly fill out one of those forms with the
19 appropriate agenda item number. If you're going to speak
20 on multiple items, if you could fill out a separate slip,
21 that would be wonderful. And then if you would bring them
22 up to my left, and probably to most of your right, to
23 Ms. Lisa Dominguez, she'll make sure that you get on the
24 correct list for the item as it approaches in order to be
25 able to speak on the item.

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1 Members, do you have any reports that you
2 would like to bring up? Mr. Pennington.

3 BOARD MEMBER PENNINGTON: Mr. Chairman,
4 yes, I would.

5 CHAIRMAN EATON: How does it feel to be on
6 the left, by the way?

7 (Laughter)

8 BOARD MEMBER PENNINGTON: It's very
9 strange, very strange. Of course, if you're out there,
10 I'm on the right.

11 CHAIRMAN EATON: Absolutely.

12 (Laughter)

13 CHAIRMAN EATON: We planned it that way.
14 Thank you. I just wanted to see if you had read that part
15 of the book.

16 (Laughter)

17 BOARD MEMBER PENNINGTON: Mr. Chairman, I
18 would like to report that I spent the weekend in
19 Bakersfield, and one might laugh at that, but I had a very
20 enjoyable time with (inaudible) Marin Raceway where our
21 rerefined oil program started out four years ago with one
22 car, that one race car, Nascar, that ran rerefined oil.

23 This weekend they had a rerefined oil
24 challenge which had 28 cars, all with rerefined oil. They
25 brought the cars in, they drained the oil, they put

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1 rerefined in, made them pay for the oil. In that race,
2 our car, Number 45 there, had our logo on the hood, and
3 the car came in third place.

4 Later in the day on Sunday, they had a
5 regular Nascar Winston West race with 36 automobiles in
6 it. About four or five of them, I think, were running
7 with rerefined oil. Our car that we sponsor, along with
8 Napa Auto Parts, ran and won the race, and it was of
9 course running on rerefined oil.

10 I'm going to pass the program around.
11 You'll see that there's several mentions of the Board, as
12 well as the rerefined oil program. I think we need to be
13 very proud of our staff that developed this program and
14 its relationship to this race track and Nascar. It's very
15 impressive, and it was very impressive for me because they
16 let me start the main race, the 250-lap race, and I was
17 out there. That was fun for me, but it was very -- it's a
18 very impressive program, and Marin Raceway, Kern County
19 Waste Management, Daphne Washington, Chuck Magee, those
20 folks have just done an absolutely fantastic job with this
21 program.

22 Four years ago, one car. This year they
23 run a lot of them. So it's an excellent program. So I'll
24 send this around for my colleagues to look at.

25 Thank you, Mr. Chairman.

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1 CHAIRMAN EATON: Thank you. It's great
2 exposure for the Board. I know that's been one of your
3 keen interests in trying to expand just the interest, and
4 I believe it's the largest attended sporting event in the
5 world, Nascar racing. So that's great.

6 Mr. Jones.

7 BOARD MEMBER JONES: I'll take these out of
8 order in order to keep them in some kind of context. I
9 was a judge and a speaker at the CRRC truck rodeo --

10 (Laughter)

11 BOARD MEMBER JONES: -- which was held in
12 Pleasanton, which is drivers competing against each other
13 for their skills on operating refuse equipment. It was a
14 good day. It wasn't as good as Nascar, but it was a
15 pretty good day.

16 Also, on September 26th, the Board had 44
17 walkers that were part of the Juvenile Diabetes Foundation
18 walk to cure juvenile diabetes. I want to thank the team
19 leaders, Jeannine Bakulich, Caren Fish, Kate Wilson,
20 Tabetha Welmon, Selma Lindrud, Mike Keffer and Peggy
21 Farrell. We raised \$3,536 that afternoon and it was a
22 great event. We did a good job. Mark Leary, who is new
23 to our staff from BFI, is one of the folks that runs JDF
24 in the Sacramento region. We had one of our people on
25 staff that raised \$445 in pledges. So it was a great day.

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1 We -- I spent the last few days up in Reno
2 at SWANA. I'll talk about this a little bit later, but
3 our landfill operator certification program, I met with
4 John Skinner, the CEO; Steve McGuinn, the immediate past
5 president; as well as Carol Forns, who is Chief Operating
6 Officer for SWANA; and Lori Sekosofado (phonetic), a pisan
7 who runs all the technical programs, and they are going to
8 work with the State of California to develop a curriculum
9 for our program that's going to be California specific.
10 And I'll wait until later when we have the item to explain
11 the importance of that, but I was very, very encouraged
12 with their the fact that we don't have to reinvent the
13 wheel and that they're willing to take care of
14 California's needs to make this information specific.

15 And then I just want to let everybody know
16 that on November 9th, throughout the state, in working
17 with USEPA and America Recycles Day, there will be
18 waste-wise satellite forums that are being dedicated to
19 America Recycles Day. As the Board Members remember, last
20 year we spent a lot of time in jurisdictions throughout
21 the state doing programs, and I think a lot of cities are
22 still going to do programs to inform the public that if
23 you're not buying recycled, you're not really recycling.
24 We need markets. We need people to start thinking about
25 buying new products made with recycled content.

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1 Throughout the state there will be
2 waste-wise conferences on November 9th. If anybody, since
3 there's so many cities in the audience today, if a local
4 jurisdiction or regional one is having one, we would
5 encourage you to let businesses in your areas know because
6 we're trying to make them aware that buying recycled makes
7 sense to the bottom line. And it's obviously going to
8 help you with your programs. You collect it, you need
9 somebody to buy it, a product made with that recycled
10 content.

11 So there are America Recycles Day materials
12 in the back of the room, as well as notices of the
13 waste-wise program.

14 And that is it, Mr. Chairman.

15 CHAIRMAN EATON: All right.

16 BOARD MEMBER PENNINGTON: Mr. Chairman.

17 CHAIRMAN EATON: Mr. Pennington.

18 BOARD MEMBER PENNINGTON: I would like to
19 comment that anytime anybody gets a chance to see one of
20 these truck rodeos, it's fascinating. The skills that
21 these drivers have operating this big equipment, it's
22 fascinating when you see it.

23 CHAIRMAN EATON: Ms. Moulton-Patterson.

24 BOARD MEMBER MOULTON-PATTERSON: Thank you,
25 Mr. Chair.

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1 I had the opportunity to visit the opening
2 at the Davis Street Reuse Center in San Leandro, and it
3 was really exciting to see the partnership of the cities
4 and private industry and non-profits working together.
5 And I would urge any of you that haven't seen it to go
6 down and see it. It's really -- it was really exciting
7 for me.

8 Also, I attended the League of Cities and
9 talked to many of our city representatives regarding all
10 of their efforts in meeting AB 939. I also had --

11 CHAIRMAN EATON: Boy, were you brave.

12 (Laughter)

13 BOARD MEMBER MOULTON-PATTERSON: Yeah. I
14 also had the opportunity to attend the community college
15 conference and I was able to talk with the community
16 college -- many of the California community colleges about
17 their efforts in meeting recycling needs.

18 And in particular, I was really interested
19 in Santa Monica Community College. They have a really
20 great program, and it really works in well with what we
21 saw at the City of Santa Monica workshop that Mr. Chair
22 organized.

23 I also was able to see a landfill, Newby
24 Island Landfill, and also one in Atlanta, and it was just
25 really a great month for me to see all of these different

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1 things, and I really feel like I know a few of the
2 initials you're all talking about now.

3 (Laughter)

4 CHAIRMAN EATON: I thought -- didn't we
5 sort of ban that, Senator? The acronyms? I thought so.

6 (Laughter)

7 BOARD MEMBER ROBERTI: She gets about a
8 hundred acronyms.

9 CHAIRMAN EATON: Anything, Senator?

10 I just have a --

11 BOARD MEMBER ROBERTI: I think I have one
12 or two. I'm sorry.

13 CHAIRMAN EATON: Senator Roberti. I'm
14 sorry.

15 BOARD MEMBER ROBERTI: I spoke to the
16 Southern California Center of Environmental and Economic
17 Development. I think it was September 28th. And then I
18 spoke to the City of El Monte Buy Recycle workshop, which
19 was very interesting. I would hope that many
20 jurisdictions have these very enthusiastic workshops. It
21 was very fascinating to see, especially the local
22 enthusiasm.

23 Both Member Moulton-Patterson and I --
24 maybe she has mentioned this already -- have been to the
25 Los Angeles office and were in the germination of starting

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1 an office there and would like the people, especially from
2 southern California to know that, and eventually it will
3 be up and running and fully functioning.

4 And it would be a misnomer, Mr. Chairman,
5 to say that I was on jury duty. I was rejected by five
6 panels.

7 (Laughter)

8 BOARD MEMBER ROBERTI: Alternately by the
9 defense and the prosecution.

10 (Laughter)

11 BOARD MEMBER ROBERTI: So I just wanted to
12 share that with you.

13 CHAIRMAN EATON: No reflection either on
14 you personally or on the Board, I'm sure.

15 (Laughter)

16 CHAIRMAN EATON: Thank you.

17 I just have a couple of things. One, I
18 guess it's been a couple of weeks now, but we had a very
19 successful C&D workshop in Monterey and I would like to
20 just thank the staff, Terry Brennan, Marshalle Graham, and
21 Cara Morgan, and apologize to those who I didn't mention
22 who participated in that. It was very successful and it
23 was kind of a unique sort of experiment. I think everyone
24 there thought that the presentations, not by only by staff
25 but by people who are involved in the C&D world, were

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1 very, very much appreciative and said if we had only known
2 this a year ago when we were trying to start out, it would
3 have been very helpful. I think it's very successful and
4 we're going to expand it to all other parts of the state
5 and help I think many, many jurisdictions.

6 And one other note, that in our November
7 16-17th meeting, we will be having a Disposal Reporting
8 System presentation. It will be a series of panels
9 dealing with disposal on reporting, host jurisdictions,
10 allocation issues, all the number of things that I'm sure
11 Ms. Moulton-Patterson heard more than her fair share down
12 at the League about.

13 For those of you who are in the audience
14 and you've been contacted by staff members, please return
15 their calls. They're trying to get as much input there.
16 I think that will be very helpful. It will be the Board's
17 first step in trying to resolve some of the outstanding
18 issues that have come before us, some of the issues that
19 have plagued all of us -- and I mean all of us -- on this,
20 and it's going to be, I think, our first step as we move
21 toward the 1066 process.

22 With that, I'll turn to Mr. Keith Smith for
23 our report from the Executive Director.

24 Mr. Smith.

25 MR. SMITH: Good morning, Mr. Chairman and

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1 Board Members. I have just one item to update you on
2 today.

3 I would like to give you a status report on
4 the Filbin tire fire. According to the USEPA, the
5 Williams Company has, to date, put out about 65 percent of
6 the fire. Currently the company is focussing on the part
7 of the site where the tires are buried the deepest, and
8 they are making excellent progress. The USEPA officials
9 have explained that the reason they weren't able to attack
10 the Royster fire, the one that occurred a year ago, as
11 aggressively was the different topography.

12 As you know, the Filbin site is mainly on a
13 hillside, allowing the pyretic oil produced to be
14 collected, minimizing the ground water and surface
15 contamination problems. Royster is in a gravel pit, so
16 the water and foam would have mixed with the oil and
17 collected at the bottom where it would have increased the
18 possibility of ground water contamination.

19 Besides the fire suppression issue, USEPA
20 is continuing to work with the Department of Toxic
21 Substances Control to transport the pyretic oil. Presence
22 of dioxin is complicating efforts to identify an
23 appropriate disposal or recycling site for the oil.

24 As for the area where the Board is most
25 involved at this point, staff is reviewing the final

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1 design for the winterization plan. Stanislaus County was
2 unsuccessful in their attempts to gain property access
3 from Mr. Filbin's sister, who owns a portion of the site,
4 but staff believes we have a good chance of gaining that
5 site access in the near future. Staff is proposing to
6 build a series of check dams on her property to keep
7 runoff from contacting the areas contaminated by the fire.
8 If necessary, we will be working with the Attorney
9 General's office to secure access to this property so that
10 we can implement the winterization plan before the rainy
11 season begins.

12 Just one other comment, the Board next week
13 is scheduled to consider the remediation plan for the site
14 that Mr. Filbin's contractor submitted on October the 8th.

15 And that concludes my report.

16 CHAIRMAN EATON: Any questions of
17 Mr. Smith?

18 Hearing none, Members, we have one item
19 that's on the continued business agenda. That is the
20 Lionudakis Compost Facility. As was previously discussed
21 at our last Board meeting when it was taken up, even
22 though it was continued to this date, it will be continued
23 to the November 16th-17th Board meeting. That's due to
24 the fact, as we all agreed, that it would be unfair for us
25 to take up that item since it affects this region right

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1 here and our next Board meeting will be in San Luis
2 Obispo. So as we agreed before, the continuance into
3 November has more to do with location as we made a
4 commitment to those citizens of Sacramento County that we
5 would not be taking that item out of town, that they
6 couldn't reach it.

7 So without objection, we'll continue that
8 to the November 16th-17th meeting. Hearing no objection,
9 so shall be ordered.

10 We have one item on consent, Item Number
11 30. It has to do with consideration of approval of
12 standardized procedures for Board commendations. Any
13 objection to taking that up as the only item on consent?

14 BOARD MEMBER PENNINGTON: Mr. Chairman.

15 CHAIRMAN EATON: Mr. Pennington.

16 BOARD MEMBER PENNINGTON: I'll move the
17 item on the consent agenda.

18 BOARD MEMBER JONES: I'll second.

19 CHAIRMAN EATON: All right. Mr. Pennington
20 moves and Mr. Jones seconds that we adopt the consent
21 calendar consisting of a single item, Item 30.

22 Madam Secretary, would you please call the
23 roll.

24 BOARD SECRETARY: Board Members Jones.

25 BOARD MEMBER JONES: Aye.

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1 BOARD SECRETARY: Moulton-Patterson.
2 BOARD MEMBER MOULTON-PATTERSON: Aye.
3 BOARD SECRETARY: Pennington.
4 BOARD MEMBER PENNINGTON: Aye.
5 BOARD SECRETARY: Roberti.
6 BOARD MEMBER ROBERTI: Aye.
7 BOARD SECRETARY: Chairman Eaton.
8 CHAIRMAN EATON: Aye.
9 Okay. Moving to our new business agenda
10 items, and before we begin, let me kind of go over, Board
11 Members and members in the audience who may have gotten
12 some of the material, we will take up the items in
13 clusters. The last time we took up so many items dealing
14 with these types of issues, we had them clustered together
15 prior to the Board packet coming out. Through no fault of
16 anyone --
17 (Temporary power failure)
18 BOARD MEMBER JONES: What did you do,
19 Trevor?
20 CHAIRMAN EATON: We didn't let him talk the
21 last time.
22 (Laughter)
23 CHAIRMAN EATON: As I was saying, to get
24 back at the Board for taking them up in a very sequential
25 order, it was changed somewhat. What we will simply do

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1 today is take items up in clusters as they are relevant to
2 one another as we move through. So we won't take them in
3 numerical order -- 2, 3, 4, 5, 6, 7, 8 -- but rather take
4 them in cluster order, and I think each of you, Members,
5 should have received a new updated revised motion format.
6 So if you haven't, I'll have a couple of minutes to see if
7 you have received it. If not, we can get you a copy. I
8 think everyone's got one.

9 So without further adieu, we will go to the
10 first item which was on the original agenda as Item Number
11 18 dealing with the jurisdiction Malibu.

12 Mr. Schiavo, I believe you have a
13 presentation --

14 MR. SCHIAVO: Right.

15 CHAIRMAN EATON: -- and then will turn it
16 over.

17 MR. SCHIAVO: Yes.

18 Good morning, Board Members. Pat Schiavo
19 of the Diversion, Planning and Local Assistance Division.
20 I will begin the process today with 12 formal
21 presentations, which we'll cluster the items as the
22 Chairman mentioned.

23 Item Number 18 is the City of Malibu, and
24 staff is requesting that the previously conditionally
25 approved Source Reduction Recycling Element be approved;

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1 and that the requested base year change described in
2 Agenda Item Number 18 be approved; and accept staff
3 findings that the City of Malibu is making progress in
4 implementing their Source Reduction Recycling Element and
5 are meeting the diversion requirements.

6 And that concludes my presentation.

7 CHAIRMAN EATON: All right. Any questions
8 of staff?

9 BOARD MEMBER PENNINGTON: Mr. Chairman.

10 CHAIRMAN EATON: Mr. Pennington.

11 BOARD MEMBER PENNINGTON: I'll move
12 Resolution 1999-500 with the appropriate findings to
13 include that the Board approves the previously
14 conditionally approved SRRE, approve the requested base
15 year change, accepts the staff findings that the
16 jurisdiction is making progress in implementing it's SRRE
17 and meeting the diversion requirements, and is not issuing
18 a compliance order.

19 BOARD MEMBER JONES: I'll second.

20 CHAIRMAN EATON: Mr. Pennington moves,
21 Mr. Jones seconds that we adopt Resolution 1999-500.

22 Madam Secretary, please call the roll.

23 BOARD SECRETARY: Board Members Jones.

24 BOARD MEMBER JONES: Aye.

25 BOARD SECRETARY: Moulton-Patterson.

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1 BOARD MEMBER MOULTON-PATTERSON: Aye.
2 BOARD SECRETARY: Pennington.
3 BOARD MEMBER PENNINGTON: Aye.
4 BOARD SECRETARY: Roberti.
5 BOARD MEMBER ROBERTI: Aye.
6 BOARD SECRETARY: Chairman Eaton.
7 CHAIRMAN EATON: Aye.
8 Next item.
9 MR. SCHIAVO: Agenda Items 11 and 27
10 include the Cities of Galt and Vernon, and staff is
11 requesting that the Board approve the requested base year
12 changes described in Items 11 and 27, and accept staff's
13 findings that the jurisdictions are making progress in
14 implementing their Source Reduction and Recycling Elements
15 and are meeting the diversion requirements.
16 And that concludes my presentation.
17 CHAIRMAN EATON: Any questions of staff?
18 Hearing none.
19 BOARD MEMBER PENNINGTON: Mr. Chairman.
20 CHAIRMAN EATON: Mr. Pennington.
21 BOARD MEMBER PENNINGTON: I'll move
22 adoption of Resolutions 1999-501 and 1999-502 with the
23 appropriate findings to include that the Board approves
24 the requested base year change, accepts the staff findings
25 that the jurisdiction is making progress in implementing

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1 their SRRE and meeting the diversion requirements, and is
2 not issuing a compliance order.

3 CHAIRMAN EATON: All right.

4 BOARD MEMBER MOULTON-PATTERSON: Second.

5 CHAIRMAN EATON: Mr. Pennington moves and
6 Ms. Moulton-Patterson seconds that we adopt Resolutions
7 1999-501 and 1999-502.

8 Without objection, I'll substitute the
9 previous roll call. Hearing no objection, such shall be
10 ordered.

11 Next item, Mr. Schiavo.

12 MR. SCHIAVO: Okay. Agenda Items 6, 17 and
13 26 include the Cities of Coalinga, Loomis, and Tehama
14 Regional Agency. Staff is requesting that the Board
15 approve the requested base year changes described in these
16 agenda items and accept staff findings that the
17 jurisdictions are making progress in implementing their
18 Source Reduction Recycling Elements and are meeting the
19 diversion requirements.

20 And that concludes my presentation.

21 CHAIRMAN EATON: All right. I'll move that
22 we adopt Resolutions 1999-503, 1999-504, and Resolution
23 1999-505.

24 BOARD MEMBER JONES: I'll second.

25 CHAIRMAN EATON: Mr. Eaton moves and

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1 Mr. Jones seconds that we adopt Resolutions 1999-503,
2 1999-504, and Resolution 1999-505.

3 Without objection, substitute the previous
4 roll call. Hearing no objection, so shall be ordered.

5 BOARD MEMBER JONES: Mr. Chairman.

6 CHAIRMAN EATON: Mr. Jones, was that an
7 objection?

8 BOARD MEMBER JONES: No.

9 CHAIRMAN EATON: Okay. So shall be
10 ordered.

11 Mr. Jones.

12 BOARD MEMBER JONES: For the sake of trying
13 to stay consistent, at last month's Board meeting when we
14 went through these issues, there were quite a few of them
15 that were on compliance orders. We were getting a lot of
16 letters. I want to -- with the indulgence of the Board
17 and Mr. Chairman, go over those issues that I brought up
18 at that last Board meeting because I think it made people
19 understand how this Board views these things.

20 Compliance order is a mechanism to help a
21 jurisdiction move on to the next step. Today's items are
22 clearly sensitive, time sensitive items. We're in 1999
23 and we're looking to review documents from 1995 in some
24 cases. A lot of these agenda items have negative numbers.

25 There's 400-plus biennial reviews that have

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1 been done and half of them over the last year and a half
2 have been approved. It's this last 120, 130 that have
3 been extremely difficult because of the lack of numbers
4 and the lack of verification the programs were in fact
5 being done.

6 It's impossible with these kinds of
7 negative numbers for someone to make a determination
8 whether or not a jurisdiction is meeting its mandate.
9 Part of the compliance order is to give both that
10 jurisdiction and the Board staff time to work through
11 those issues that are still outstanding.

12 A lot of people have talked about the
13 inadequacies of the Disposal Reporting System. You heard
14 the Chairman today state that on the 16th and 17th Board
15 meeting, we will in fact have a hearing on Disposal
16 Reporting System issues where we would invite you all, if
17 you have issues locally, to come to that meeting and offer
18 your input as to how we can make this system work because
19 remember, this is a system that works regionally,
20 internally. This is not the Board's system. So we need
21 cooperation from landfills, transfer stations, haulers,
22 cities, and counties to make this work.

23 Compliance order is a formal notice that
24 helps the jurisdiction work through the next step. If you
25 read a compliance order, it says, "The board shall hold

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1 the public hearing to determine if the efforts of the
2 compliance order were met." It's only at that time that
3 you go on to the next step, which would include penalties.
4 So there's a compliance order and then another hearing,
5 and then the determination after that hearing would put
6 you on to the next step.

7 This is not the hammer of a gun being
8 pulled back, ready for somebody to squeeze the trigger.
9 You have to understand that. I think that's critical.
10 This is to try to get these 120 cities into compliance.
11 And while some people don't believe it, this Board
12 acknowledged it at the last meeting and I think is ready
13 to acknowledge it today.

14 Thank you, Mr. Chairman.

15 CHAIRMAN EATON: Thank you, Mr. Jones.

16 Mr. Schiavo.

17 MR. SCHIAVO: Agenda Items 2 and 10 include
18 the Cities of Bellflower and Fontana, and staff is
19 requesting that the Board approve the base year
20 corrections described in these agenda items and accept
21 staff findings that the jurisdictions are making progress
22 in implementing their Source Reduction Recycling Elements
23 and are meeting the diversion requirements.

24 And that concludes my presentation.

25 CHAIRMAN EATON: Okay.

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1 BOARD MEMBER PENNINGTON: Mr. Chairman.

2 CHAIRMAN EATON: Any questions? I have a
3 few speakers on Agenda Item Number 10 -- Mr. Curtis Aaron,
4 Michael Glasson, Paul Ryan on Agenda Item Number 10.

5 BOARD MEMBER JONES: Is this the one that
6 we were going to accept the base year numbers and accept
7 the biennial review?

8 MR. SCHIAVO: Yes.

9 BOARD MEMBER JONES: Okay. Do you want us
10 to vote or do you want to make the presentation?

11 MR. AARON: Thank you very much, honorable
12 Chair and Board Members. My name is Curtis Aaron, Public
13 Services Director for the City of Fontana. I'm here on
14 behalf of the City of Fontana to request the Board approve
15 our biennial review, and it looks like with Mr. Jones's
16 comments that I probably shouldn't have come up here.

17 (Laughter)

18 MR. AARON: I just want to --

19 BOARD MEMBER JONES: No. Absolutely.

20 CHAIRMAN EATON: Sacramento is wonderful
21 this time of year.

22 (Laughter)

23 MR. AARON: I wanted to take the time to
24 come up here and let the Board know that we work hard with
25 Board staff to try and meet compliance with the RSRE, and

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1 I've provided you a little summary report of the City of
2 Fontana and the programs that we've implemented, and just
3 take the time to share that with and you let you know some
4 of our concerns.

5 As Mr. Jones brought up, the Disposal
6 Reporting System is something that we're very interested
7 in, too, and we will be attending that meeting in November
8 also to add our input to that. The City has implemented
9 the majority, the vast majority of its programs, as I've
10 stated in our handout. I've also provided a little
11 demographics on the City. We have 37 square miles of
12 incorporated area and 15 square miles of unincorporated
13 area with a population of 103,000. As you can see on the
14 map of that service area, there's several large yellow
15 holes within our city that are unincorporated which
16 currently -- that get counted in with our waste diversion
17 at times and we have to go to a lot of effort to get those
18 pulled out.

19 Like I stated, the Disposal Reporting
20 System is very important to us to make sure that's
21 accurate and that we don't have these mix-ups in the
22 future.

23 The City got their SRRE adopted in 1992 and
24 has submitted their annual report. You'll see pictures in
25 here with our curbside commingled recycling program, our

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1 community drop-off center for people to drop off large,
2 hard-to-handle items, light goods, scrap metal. We also
3 have our own permanent household hazardous waste
4 collection center, a curbside used oil collection
5 program -- which is also funded through grants by the
6 California Integrated Waste Management Board. We have a
7 white goods and recycling scrap metal program.

8 We also have a materials recovery facility
9 through our contracted waste hauler, Burtec Waste
10 Industries. They handle recyclable commodities. They
11 sort, bail, transport, and sell those commodities and then
12 the residuals are landfilled.

13 We also have community outreach programs, a
14 quarterly newsletter, special events such as our Arbor Day
15 celebration, which we tie in with a lot of environmental
16 programs that we provide in the City in Fontana. We have
17 classroom participation, a community access channel which
18 we provide that information on our recycling programs;
19 handouts, informational flyers, and newspaper
20 advertisements. We've implemented procurement procedures,
21 E-mail, paperless communications, waste audits, recycling
22 hotline, rate structure modification, solid waste
23 recycling ordinance. And we've done this in a timely
24 manner.

25 We do request that the Board look favorably

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1 upon our biennial review.

2 I thank you for the time. If you have any
3 questions, I'm available for comment.

4 CHAIRMAN EATON: Any questions for
5 Mr. Aaron? I think, Mr. Ryan and Mr. Glasson, he may have
6 covered that already for you.

7 MR. GLASSON: Everything's been covered.

8 CHAIRMAN EATON: Thank you.

9 Mr. Pennington.

10 BOARD MEMBER PENNINGTON: Mr. Chairman,
11 I'll move adoption of Resolution 1999-506 and Resolution
12 1999-507 with the appropriate findings to indicate that
13 the Board approves the requested base year adjustment,
14 accepts the staff finding that the jurisdiction is making
15 progress in implementing it's SRRE and meeting the
16 diversion requirements, and is not issuing a compliance
17 order.

18 BOARD MEMBER JONES: Second.

19 CHAIRMAN EATON: Mr. Pennington moves and
20 Mr. Jones seconds that we adopt Resolutions 1999-506 and
21 1999-507.

22 Without objection, we'll substitute the
23 previous roll call. Hearing no objection, so shall be
24 ordered.

25 Mr. Schiavo, next items.

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1 MR. SCHIAVO: Okay. Agenda Items 8, 23,
2 and 24 include the Cities of Concord, Roseville and San
3 Bruno. Staff is requesting that the Board approve the
4 base year corrections as described in these agenda items
5 and accept staff findings that the jurisdictions are
6 making progress in implementing their Source Reduction
7 Recycling Elements and are meeting the diversion
8 requirements.

9 And that concludes my presentation.

10 CHAIRMAN EATON: We have two speakers,
11 Mr. Scott Chadd on Item Number 24, do you wish to speak?
12 And that will be followed by Mark White, City of Concord,
13 on Item 8.

14 MR. CHADD: Good morning, Mr. Chairman and
15 Board Members. I'll be very brief. We brought along some
16 information that we think would be valuable to your Board
17 and staff on efforts that we're making in support of the
18 action that's in front of you.

19 CHAIRMAN EATON: Thank you. If you could
20 state your name for the record please.

21 MR. CHADD: Scott Chadd.

22 CHAIRMAN EATON: Two d's, City of San
23 Bruno.

24 BOARD MEMBER JONES: San Bruno.

25 CHAIRMAN EATON: Thank you. All right.

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1 Mr. White or Mr. Dragovich, would you care to --

2 MR. DRAGOVICH: We have nothing to add.

3 CHAIRMAN EATON: Okay.

4 BOARD MEMBER JONES: Mr. Chairman.

5 CHAIRMAN EATON: Mr. Jones.

6 BOARD MEMBER JONES: Mr. Chairman, I would
7 like to move adoption of Resolutions 1999-508, 1999-509,
8 and 1999-510.

9 CHAIRMAN EATON: Okay. And I'll second
10 that motion. Mr. Jones moves, Mr. Eaton seconds that we
11 adopt Resolutions 1999-508, 1999-509, 1999-510.

12 Without objection, we'll substitute the
13 previous roll call. Hearing no objection, so shall be
14 ordered.

15 Mr. Schiavo.

16 MR. SCHIAVO: Agenda Item 13 is the City of
17 Half Moon Bay, and staff is requesting that the Board
18 approve the base year correction described in this agenda
19 item and accept staff findings that the City of Half Moon
20 Bay is making progress in implementing their Source
21 Reduction Recycling Element and is meeting the diversion
22 requirements.

23 And that concludes my presentation.

24 CHAIRMAN EATON: Okay.

25 BOARD MEMBER JONES: Mr. Chairman.

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1 CHAIRMAN EATON: Mr. Jones.

2 BOARD MEMBER JONES: Seeing as I was one of
3 the people that -- for those of you that weren't in the
4 audience, Mr. White had the poor timing of being in front
5 of us when we looked at the L.A. Fix, so his item took
6 about an hour and a half, maybe two hours and we kind of
7 used him for the basis.

8 CHAIRMAN EATON: Did you say basis or bait?

9 (Laughter)

10 BOARD MEMBER JONES: A lot of good work
11 came out of that. Mr. White, you've got big shoulders.
12 You did at least 20 pounds that day, but we appreciate it.

13 I would like to move adoption of Resolution
14 1999-511, the consideration of staff recommendation on
15 biennial review findings for the City of Half Moon Bay.

16 BOARD MEMBER PENNINGTON: Second.

17 CHAIRMAN EATON: Mr. Jones moves and
18 Mr. Pennington seconds that we adopt Resolution 1999-511.

19 Without objection, we'll substitute the
20 previous roll call. Hearing no objection, so shall be
21 ordered.

22 Next item, Mr. Schiavo.

23 MR. SCHIAVO: Okay. Agenda Item Number 7
24 is the City of Clayton, and staff is requesting that the
25 Board not approve the biennial review findings for the

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1 City of Clayton, and accept staff findings that it cannot
2 determine the jurisdiction is making progress in
3 implementing its Source Reduction and Recycling Element
4 programs or determine they are meeting the diversion
5 requirements due to non-submittal of the required reports,
6 and that the attached compliance order be issued.

7 CHAIRMAN EATON: Questions or comments?

8 BOARD MEMBER JONES: Mr. Chairman.

9 CHAIRMAN EATON: Mr. Jones.

10 BOARD MEMBER JONES: I would like to move
11 adoption of Resolution 1999-512 which is consideration of
12 the recommendation on the biennial review findings for the
13 Source Reduction, and consideration of the adoption of a
14 compliance order relative to the biennial review findings
15 for the City of Clayton, Contra Costa County.

16 BOARD MEMBER PENNINGTON: Second.

17 CHAIRMAN EATON: Mr. Jones moves and
18 Mr. Pennington seconds that we adopt Resolution 1999-512.

19 Without objection, we'll substitute the
20 previous roll call. Hearing no objection, so shall be
21 ordered.

22 Mr. Schiavo, next item.

23 MR. SCHIAVO: Okay. Agenda Item Number 22
24 is the City of Paramount, and staff is requesting that the
25 Board not approve the base year correction requested, and

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1 accept staff findings that the jurisdiction is making
2 progress in implementing their Source Reduction Recycling
3 Element programs but cannot determine that they are
4 meeting the diversion requirements due to incalculable or
5 inaccurate data, and that the attached compliance order be
6 issued.

7 CHAIRMAN EATON: All right. We have one
8 speaker on this item, Mr. Michael Huls, speaking on behalf
9 of the City of Paramount.

10 Mr. Huls.

11 MR. HULS: Thank you very much, Chairman
12 and other honorable council -- I was going to say council
13 members. I spent a lot of time in front of a lot of city
14 councils lately.

15 On behalf of the City of Paramount, we
16 would like to thank you for providing us an opportunity to
17 respond to your agency as to the proposed compliance
18 order. First of all, we wanted to state that the City is
19 committed to finding ways to reduce solid waste disposal
20 from households and businesses located in the city in
21 accordance with the law and to protect the human health
22 and environment.

23 Just for your information, the City is a
24 diverse community located in southeastern Los Angeles.
25 It's a population of about 56,000 and more than 10,000

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1 households. In addition, the community has quite a bit of
2 commercial and industrial uses.

3 In the late 1980s, the City became one of
4 the first cities and remains one of the few operating a
5 materials recovery facility, and in the past year this
6 facility, which is called Paramount Resource and
7 Recycling, has been approved for an expansion that will
8 enable it to process in excess of 2,000 tons of waste per
9 month. This facility is and will continue to be the
10 cornerstone of the City's efforts to divert waste from
11 disposal, enabling us to meet the laws (inaudible) of 50
12 percent by the year 2000.

13 One of the challenges that we face that we
14 wanted to bring up today was that much of the recyclable
15 material has been removed from the wastestream prior to
16 its receipt at PR&R. Not only is this diversion difficult
17 to measure, but it makes recovery less economical since
18 valuable commodities are already pulled out. This is
19 expected as the City is a lower income community, and
20 many households and businesses practice recycling as a
21 means of generating additional income. That's one of the
22 reasons that our residential curb side program that was
23 identified in the original SRRE has not been considered,
24 in effect, a focus for the City.

25 Nevertheless, the City is committed to

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1 exploring strategy in identifying the most effective ways
2 in which to reduce the quantities of remaining waste.
3 We're already working with PR&R to identify expanded
4 opportunities for diversion including a possible green
5 waste curbside program.

6 Of course, we do need help from the Board
7 to correct the ongoing DRS problems, especially with
8 illegal hauling that occurs within the county, self-hauled
9 waste, which is very difficult to monitor and to measure,
10 and other disposal site reporting issues over which the
11 City has no control.

12 One of the areas that we could definitely
13 use help is to obtain street addresses from the street
14 loads, especially from the streets loads from a single
15 hauler that may be from a construction site, and also from
16 non-franchise waste. In addition, beneficial usage of
17 construction and demolition debris -- concrete, things of
18 that nature -- needs to be exempted from reporting
19 requirements as part of a permitted mining operation.

20 We do intend to make every effort to work
21 closely with the Board staff in ensuring we receive proper
22 credit for our past diversion efforts. The City's records
23 identify a much higher rate of diversion than was
24 indicated by the DRS and the base year adjustment
25 methodology. We feel the demographic and geographic

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1 characteristics of the City end up penalizing the City in
2 terms of what existing recycling efforts have taken place.

3 The City is already making changes to
4 programming that will generate higher diversion now that
5 we have a better understanding of the disposal
6 characteristics, and that's since 1995 when the new
7 Disposal Reporting System was put into effect.

8 We reaffirm our intention to work with
9 Board staff to address base year and reporting year
10 deficiencies to the extent feasible, and we would just
11 like to reemphasize our previous and ongoing commitment to
12 solid waste reduction.

13 Thank you very much.

14 CHAIRMAN EATON: Thank you. Any questions
15 of Mr. Huls? Okay.

16 BOARD MEMBER JONES: Mr. Chairman.

17 CHAIRMAN EATON: Mr. Jones.

18 BOARD MEMBER JONES: I think Mr. Huls is
19 going to be invited to the DRS meeting, if I remember
20 right.

21 I would like to move adoption of Resolution
22 514 which -- I'm sorry -- 1999-514 which includes the
23 compliance order.

24 BOARD MEMBER PENNINGTON: Second.

25 CHAIRMAN EATON: All right. Mr. Jones

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1 moves and Mr. Pennington seconds that we adopt Resolution
2 1999-514 -- I'm sorry.

3 BOARD MEMBER ROBERTI: I have a question
4 after the motion.

5 CHAIRMAN EATON: All right. Mr. Jones
6 moves and Mr. Pennington seconds that we adopt Resolution
7 1999-514.

8 Without objection, substitute the
9 previous --

10 BOARD MEMBER ROBERTI: Wait. No, no, no.
11 I'm sorry.

12 CHAIRMAN EATON: I'm sorry. Then I will
13 ask Mr. Jones to withdraw the motion because there is a
14 motion before us. So if we can withdraw it, we have a
15 question. Mr. Jones, do you withdraw it?

16 BOARD MEMBER JONES: Yes.

17 CHAIRMAN EATON: Okay. Senator Roberti.
18 I'm sorry.

19 BOARD MEMBER ROBERTI: That's all right.

20 I guess it would be of Mr. Huls. He spent
21 some time discussing the demographics. I guess that means
22 the economics of the City of Paramount.

23 Could you explain to me what would be the
24 factors that would cause Paramount to -- how the
25 demographics, economics would cause Paramount to lag?

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1 MR. HULS: The issue of the demographics
2 and geographics of the City is that in the lower income
3 community we have a tremendous amount of diversion that
4 goes on that's conducted by the residents in terms of
5 removing things and taking it for sale to a local drop-off
6 like a 20-20 Center. We have a lot of problems in getting
7 information specifically about Paramount.

8 BOARD MEMBER ROBERTI: So you're saying
9 there's a higher percentage of self-recycling.

10 MR. HULS: Self-recycling. Absolutely.

11 BOARD MEMBER ROBERTI: And does that -- is
12 that factored in in our figures on generation? What --
13 And maybe both you and our staff can help me as to what do
14 we do to account for that.

15 MR. HULS: One of the things that happened
16 in the 1990 base study is that a lot of this diversion
17 went uncounted, and that's an unfortunate statistic. The
18 Disposal Reporting System measures just disposal and does
19 not directly account for diversion. So this material we
20 know is being diverted. I've actually gone to the
21 Paramount Resource Recovery facility and actually taken a
22 look at a number of different loads that have come in, and
23 it's virtually devoid of any valuable commodities, hardly
24 any newspaper, there's no aluminum cans, there's no
25 CRV-type materials that are --

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1 BOARD MEMBER ROBERTI: CRV?

2 MR. HULS: Excuse me. California
3 redemption value containers which have just recently been
4 expanded to a lot more containers. All of these materials
5 are devoid. It's just that the Disposal Reporting System
6 doesn't happen to measure that. And then we add in the
7 other problems of the Disposal Reporting System, the
8 extrapolation errors that occur within L.A. County. We
9 end up with --

10 BOARD MEMBER ROBERTI: Explain the
11 extrapolation error again. That's where you have a region
12 that has a general computation, and you're saying that the
13 extrapolation error, probably Paramount got on the short
14 end?

15 MR. HULS: They probably did. I represent
16 a number of jurisdictions, and some have received the good
17 end of the stick and others have not received a better
18 number from the Disposal Reporting System, but
19 programmatically, it actually has a lot of impact because
20 originally the City has certain assumptions of the SRRE,
21 which was developed by a consultant, and that assumption
22 included things like there is adequate material out there
23 to implement programs like curbside collection of
24 recyclables. And obviously that's not the case.

25 There are some changes that have to occur

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1 within the -- perhaps within the SRRE, but definitely in
2 our discussions with Board staff as to what type of
3 programming could be done in the future.

4 BOARD MEMBER ROBERTI: Thank you. Can our
5 staff tell us what do we do as far as computing
6 self-recycling into the picture. And assuming Paramount's
7 argument for purposes of argument, would that make a
8 difference or are their figures so bad it wouldn't make a
9 difference anyway?

10 MR. SCHIAVO: To my recollection there's a
11 couple of things going on here. One is what was submitted
12 to us was base year fix using the L.A. Fix data. To
13 correct the information, we are totally unaware that there
14 are other inherent problems with the base year fix itself,
15 the original base year until just now, to the program
16 implementation side of things in the original SRRE back
17 in --

18 BOARD MEMBER ROBERTI: You mean things like
19 self-recycling.

20 MR. SCHIAVO: Yeah. Well, self-haul would
21 have been captured with the L.A. Fix. That was the
22 purpose --

23 BOARD MEMBER ROBERTI: Refresh my memory.
24 How would that --

25 MR. SCHIAVO: The L.A. Fix, there's

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1 approximately 3 million tons-plus that was not accounted
2 for in the original base year, so we worked with the
3 County of Los Angeles and jurisdictions to figure out a
4 method to allocate that back to all of the jurisdictions
5 if it made sense.

6 BOARD MEMBER ROBERTI: And Mr. Huls is
7 saying Paramount got on the short end of the stick. You
8 haven't explained --

9 MR. SCHIAVO: Well --

10 BOARD MEMBER ROBERTI: -- exactly how that
11 happens.

12 MR. SCHIAVO: We're not sure how that
13 happens. Well, plus we were unaware of the other
14 accounting potential variables in the base year as well.
15 We hadn't heard that.

16 Regarding the targeted program
17 implementation efforts in the original --

18 BOARD MEMBER ROBERTI: How long has
19 Paramount had to get that point to us?

20 MR. SCHIAVO: A year.

21 BOARD MEMBER ROBERTI: Our staff,
22 Mr. Schiavo says that we didn't know about the self-haul
23 problem in Paramount. Is that your understanding?

24 MR. HULS: I have to say that the process
25 probably could be improved in terms of communication

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1 between Board, Board staff, and the City to help identify
2 all of the issues and problems. Of course we can't do
3 anything about water under the bridge, so to speak, so the
4 intent of the City is to work as closely as possible with
5 the staff to assure that issues that are germane to the
6 City are brought up and resolve that.

7 BOARD MEMBER ROBERTI: Thank you,
8 Mr. Schiavo.

9 BOARD MEMBER JONES: Mr. Chairman.

10 CHAIRMAN EATON: Mr. Schiavo, Senator
11 Roberti, and Mr. Jones.

12 BOARD MEMBER ROBERTI: I think --

13 MR. SCHIAVO: I was going to say the other
14 concern -- well, the other concern we had was in the
15 program implementation, and perhaps this is a product of a
16 bad or erroneous base year. However, there is about 40
17 percent or more of the waste that is green waste, and we
18 don't see a lot of implementation efforts in dealing with
19 the green waste issues, as well as some other materials
20 accounting such as there's a material recovery facility.
21 We're trying to obtain information, what are they
22 diverting from there, more specifically what material
23 types, and we're unable to obtain that information.

24 So there's a couple of levels of issues we
25 have. One is base year, and two is programs being

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1 targeted to evaluate wastestreams.

2 We're more than willing to work with the
3 jurisdiction to get them on track and to target those
4 wastestreams and give suggestions and information and
5 other support. At this point in time, I just don't see
6 them being in compliance.

7 CHAIRMAN EATON: Mr. Jones.

8 BOARD MEMBER JONES: Mr. Chairman, just a
9 brief statement. On the self-hauled waste that -- or the
10 self-hauled recycling would be picked up in the Disposal
11 Reporting System. A jurisdiction is supposed to come out
12 in 1990 and have a base year, and that base year was
13 supposed to include all those types of activities. You
14 went to Good Will, you went to Salvation Army, you went to
15 all the metal recyclers, you went to the buy-back centers,
16 you went to all the existing recycling facilities and any
17 other programs that were there got added into that number
18 as well as disposal.

19 So the self-haul -- the self-recyclers
20 would be caught in that number. That diversion would be
21 caught in the Disposal Reporting System because originally
22 when the bill was passed, you were counting things that
23 didn't exist. You were counting what got diverted and
24 what was not being generated because of source reduction.
25 The Legislature and the Governor changed that to be okay.

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1 If you used to generate 100,000 and now you generate
2 70,000, then you've met the 25 percent along with the
3 programs.

4 So I think that the work that needs to be
5 done is perfect for compliance order because if their
6 numbers are so messed up that they didn't count those
7 things, this will give them the opportunity to quantify
8 that, and then at the same time it will give them a chance
9 to look at a wastestream that's split between 45 percent
10 residential and 55 percent commercial and look at programs
11 that attack the wastestream.

12 Because Mr. Huls is right. In poor areas,
13 you are not going to find CRV-type material at the curb.
14 In San Francisco, we spent \$6 million of our own money. I
15 used to walk down the street if we ever had an aluminum
16 can or bottle, they didn't exist because everybody else
17 got them besides us. So that I understand, but that part
18 of the wastestream only represents -- if you had an
19 absolutely wonderful curbside program, you're only looking
20 at 7 percent diversion, 7 to 9.

21 So you've got to attack the thing, and I
22 think that's what these compliance orders help people do
23 is focus on what to start attacking. You've tried for ten
24 years. Now you need to move on.

25 CHAIRMAN EATON: Ms. Moulton-Patterson, I

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1 believe, had a comment.

2 BOARD MEMBER MOULTON-PATTERSON: Thank you,
3 Mr. Chair. Mr. Jones said what I was going to say
4 basically, but just with all due respect, Mr. Huls, I know
5 many of our southern California cities have the very same
6 problem. So I don't know what sets Paramount away, apart
7 from some of these other cities. And you know, I know in
8 my own city we have that same problem, people coming by
9 and all that. And the other cities seem to be able to
10 deal with it, and I would suggest that Paramount do the
11 same.

12 BOARD MEMBER ROBERTI: Mr. Chairman.

13 CHAIRMAN EATON: Senator Roberti.

14 BOARD MEMBER ROBERTI: I tend to think --
15 and I'm going to call Mr. Huls back. Not to say that he's
16 not trying to overly regale us, but I think Paramount's
17 numbers, from what I gather, are very low and probably
18 compliance order, just for that reason if nothing else we
19 have, is an order.

20 However, I tend to think that there has to
21 be an increased degree of involvement on the issue of low
22 income jurisdictions and self-haul, self-recycling. My
23 own guesstimate is that checking the thrift shops isn't
24 good enough. And I know that's what the legislation
25 requires, but I just don't think it is good enough. And

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1 for some four jurisdictions that are on the cusp, I think
2 it could make a large difference.

3 Paramount does not appear to be one of them
4 because it is -- it has a very, very low diversion rate,
5 but -- I'm just speaking for myself, and I tend to think
6 that diversions can be lost in the computation if all
7 we're doing is checking up whatever we call them,
8 recycling centers or whatever. Low income people have a
9 way of utilizing and using materials that are not within
10 the organized processes.

11 So I'm just saying this for staff, from my
12 perspective, to give that a little thought because for a
13 poor jurisdiction to meet our diversion rates is a lot
14 tougher. They can't be innovative. They don't have the
15 money to be innovative. It's just a fact that
16 unfortunately Paramount, I think, has a long way to go
17 before we can see this.

18 CHAIRMAN EATON: As you and I well know,
19 Senator, they also have an extreme wastestream with paper.
20 As you and I have spent many times, and our staff has
21 spent a lot of time in Paramount, their mailing services
22 and so on, which from my understanding is probably the top
23 mailing services location in southern California which
24 some of us have visited from time to time. And therefore,
25 I think it's a perfect opportunity to plug into a

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1 particular wastestream to sort of counterbalance while we
2 sort of adjust the other kinds of holes in the Reporting
3 System. Some of those, as we all know, sort of secure
4 those mailing services, but they do free up thereafter.

5 MR. HULS: We would hope, the City, that
6 the base year, the new base year study would identify some
7 of the undiscovered or uncovered diversion that we do know
8 occurs. I think probably one of the biggest issues for
9 the City is exactly what is the programming and that
10 future discussions with Board and Board staff will help us
11 to clarify that.

12 Thank you very much.

13 CHAIRMAN EATON: Great. All right.
14 Mr. Jones, do you want to make your motion, or -- Senator?

15 BOARD MEMBER ROBERTI: That's fine. I'm
16 ready.

17 CHAIRMAN EATON: All right. Mr. Jones.

18 BOARD MEMBER JONES: I would like to move
19 adoption of Resolution Number 514 with the appropriate
20 findings to indicate that the Board does not approve the
21 base year adjustment, accepts the staff findings that the
22 jurisdiction is making progress in implementing its SRRE
23 but cannot determine that it is meeting the diversion
24 requirements due to incalculable and/or inaccurate data,
25 and we are issuing a compliance order.

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1 BOARD MEMBER MOULTON-PATTERSON: Second.

2 CHAIRMAN EATON: Mr. Jones moves and
3 Ms. Moulton-Patterson seconds we adopt Resolution
4 1999-514.

5 Without objection, we'll substitute the
6 previous roll call. Hearing no objection, so shall be
7 ordered.

8 Next item, Mr. Schiavo.

9 MR. SCHIAVO: Agenda Item Number 21 is Napa
10 unincorporated, and staff is requesting that the Board
11 approve and accept staff findings that Napa unincorporated
12 is making progress in implementing their Source Reduction
13 and Recycling Element and are meeting their diversion
14 requirements.

15 That concludes my presentation.

16 CHAIRMAN EATON: I have Ms. Jill Pahl from
17 the Napa County Environmental Management.

18 Welcome.

19 MS. PAHL: Good morning, Chairman Eaton.

20 CHAIRMAN EATON: Your recommendation is not
21 to issue a compliance order?

22 MR. SCHIAVO: Right.

23 MS. PAHL: Good. I was waiting for the
24 same (inaudible) Fortuna got -- or (inaudible) got. With
25 that, I'll make it very short.

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1 I want to thank State staff for their help
2 and assistance. Though it may not be the gun, we heard
3 the cock of the pistol and we've started putting some of
4 our efforts into looking at the numbers a little bit more
5 rather than just implementing programs.

6 And with that, again I just want to
7 emphasize I appreciate State staff's help and invite the
8 Board Members to come to sunny Saint Helena Hometown
9 Harvest Festival and our first annual costume exchange at
10 our booth this weekend.

11 CHAIRMAN EATON: Thank you. All right.

12 I'll be happy to move that we adopt
13 Resolution 1999-521.

14 BOARD MEMBER PENNINGTON: Second.

15 CHAIRMAN EATON: Mr. Eaton moves and
16 Mr. Pennington seconds that we adopt Resolution 1999-521
17 which would accept the staff finding that the jurisdiction
18 is making progress in implementing its SRRE and meeting
19 diversion requirements, and we will not be issuing a
20 compliance order.

21 Without objection, we'll substitute the
22 previous roll call. Hearing no objection, so shall be
23 ordered.

24 Members, we have two items left with regard
25 to the planning items and then we'll take a short break.

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1 Okay. So, Mr. Schiavo.

2 MR. SCHIAVO: Okay. The next set of agenda
3 items include the cities or jurisdictions of La Canada
4 Flintridge, Inyo Regional Agency, Westmorland, Bell
5 Gardens, La Puente, Mammoth Lakes, Mono unincorporated,
6 Desert Hot Springs, and Colma.

7 Staff is requesting that the findings of
8 these agenda items be found by the Board as jurisdictions
9 that are making progress in their Source Reduction and
10 Recycling Element diversion requirements but cannot
11 determine that they are meeting the diversion requirements
12 due to incalculable or inaccurate data, and that the
13 attached compliance orders be issued.

14 And that concludes my presentation.

15 CHAIRMAN EATON: Thank you, Mr. Schiavo.
16 We have a number of speakers.

17 MS. PAHL: If I can, I'm sure it's just a
18 typo here because we were late and that's our own fault,
19 but Agenda Item 21 is listed on the monitor still, and I
20 think you just made an action on that.

21 CHAIRMAN EATON: It is only on the monitor
22 for our own sheets.

23 MS. PAHL: Wonderful. Thank you.

24 CHAIRMAN EATON: Mr. Jim Rodkey, City of
25 Blythe.

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1 MR. RODKEY: Mr. Chairman, Board Members,
2 my name is Jim Rodkey. I'm with the City of Blythe. I'll
3 make this brief.

4 The City of Blythe recognizes the standard
5 formula for calculating diversion in 1995 and 1996 has not
6 been accurate. For 1997, the City completed a
7 diversion-based annual report. The diversion rate for the
8 City was shown to be 26 percent, and the prisons, 18
9 percent, with an overall diversion rate of 25 percent.

10 We believe the City is making a good faith
11 effort. The City on its own undertook and has nearly
12 completed a generation study for 1998. In order to be
13 successful in reaching the mandated diversion goals, the
14 city of Blythe requested assistance from the Board in
15 three areas.

16 First, we have two state correctional
17 facilities in our city. They're diverting waste in their
18 recycling salvage program at about 18 percent per year.
19 We would like assistance from the targeted implementation
20 assistance team to work with the City and the prisons to
21 increase the amount of diversion at the prisons.

22 Second, since the state correctional
23 facilities have significant impact on the success of the
24 City of Blythe reaching the mandated diversion goals, it
25 is important that the time of compliance for the city is

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1 the same as the prisons. In Blythe's case, we think the
2 time for compliance should be that found in AB 75,
3 Strom-Martin, which requires state agencies to comply with
4 AB 939 diversion requirements.

5 Third and finally, the City of Blythe
6 experiences economic hardship in getting diverted
7 materials to markets. Transportation costs are high and
8 by the time many recycled materials reach market outlets,
9 the price is so low that the materials have negative
10 value.

11 We need Board assistance to correct this
12 situation. I've asked Mr. Gordon Biers (phonetic), a
13 local hauler, and Mr. Paul Ryan, our consultant, to be
14 available for any questions.

15 Thank you.

16 CHAIRMAN EATON: Thank you. Questions of
17 Mr. Rodkey? Okay. Thank you.

18 MR. RODKEY: Thank you.

19 CHAIRMAN EATON: I have Mr. Jim Greco and
20 Andy Boyd, as well as Senator Roberti.

21 BOARD MEMBER ROBERTI: It was an
22 interesting argument that the City should get the same
23 compliance deadline that the State does, but I don't quite
24 understand the reasons behind that. Maybe the witness can
25 come back and -- I didn't want to say I didn't understand

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1 the reasoning, but I figured the testimony would go to
2 waste, so I might as well as say it so we understand it.

3 MR. RYAN: Mr. Chairman, Board Members, I'm
4 Paul Ryan. I'm the consultant to the City of Blythe.

5 The problem is that if the City is
6 compelled to reach compliance prior to the time that the
7 prisons are compelled to reach compliance, it's put them
8 at a distinct disadvantage because the prison population
9 is such a large percentage of the city.

10 BOARD MEMBER ROBERTI: Roughly how much?

11 MR. RYAN: What is it? 8,000 versus total
12 population of --

13 MR. RODKEY: The City's total population is
14 about 21,000, and 8,000 of that to 10,000 is prison
15 population, and we virtually have no say-so in how they
16 divert their materials.

17 MR. RYAN: See, right now, the prisons are
18 at 18 percent. The City itself, in doing the 1997
19 generation-based annual report, shows that they're at 26
20 percent. So no matter what the City does, they're always
21 going to be disadvantaged by the prison until we can
22 work --

23 BOARD MEMBER ROBERTI: The prison's numbers
24 are always computed within the City's?

25 MR. RYAN: Right. So if we can get the

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1 Board to help us work with the prisons to bring those
2 numbers up, the City will meet its goal.

3 BOARD MEMBER ROBERTI: Let me ask our
4 staff. Do we factor that in when we have an entity like a
5 state prison that's on a more lenient schedule than the
6 City?

7 MR. SCHIAVO: Yes, it's factored in. I
8 just want to mention we're going to be glad to work with
9 the jurisdiction and the prison. With the passage of AB
10 75, we're currently starting to make a big focus on those
11 major institutions such as prisons, colleges,
12 universities, major hospitals. So we're trying to
13 emphasize assistance in those areas to get them to meet
14 their own diversion requirements that are in the
15 Strom-Martin bill.

16 BOARD MEMBER ROBERTI: The prior witness
17 said that he would like a diversion -- I guess a SRRE
18 deadline, whatever. What is our deadline called?

19 CHAIRMAN EATON: I think it's meeting the
20 goal of 50 percent.

21 BOARD MEMBER ROBERTI: The 50 percent
22 diversion. Excuse me. Yes. On the same schedule as the
23 state agency.

24 MR. SCHIAVO: There is --

25 BOARD MEMBER ROBERTI: 40 percent, that

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1 kind of strikes me as making some sense.

2 CHAIRMAN EATON: I think there's a couple
3 of issues, that as we look at this Strom-Martin bill had
4 been before the legislature for at least the last three or
5 four years. Every time it passed, it was vetoed by the
6 previous administration. Therefore, this bill will take
7 effect on January 1st of this year, the Strom-Martin bill,
8 of the year 2000. I think one of the ways, as we know,
9 whether it be Buy Recycle or Project Recycle, which is
10 really what we're talking about with state agencies, I
11 think if we look down the 1066 program, it may be the only
12 way, as you and I have spoken about corrections as a
13 whole, when we talk about the products that they buy,
14 their paper goods, their recycled content and their paper
15 goods, it will be I think one consideration we as a Board
16 have in factoring in as to whether or not we want to grant
17 an extension to a jurisdiction, be it Blythe or any other
18 jurisdiction that may have a state facility that is
19 neither noncooperative or recalcitrant in terms of trying
20 to go there.

21 I think the issue here, with regards to
22 compliance order, is to see what is there to get them to
23 targeted assistance and also perhaps do a little fact
24 finding in how difficult is it for the local jurisdictions
25 to get there.

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1 There are two separate items that we have
2 going on here. We have a bill that has yet to take
3 effect, but I think it is one that as we look at how we're
4 going to formulate 1066, because that's really our job as
5 we look down the road, is how do we want to define what we
6 will allow as a factor to be brought in.

7 BOARD MEMBER ROBERTI: Right. I totally
8 understand that and I agree. I have a concern here,
9 though, and that is -- and maybe I'm wrong. Somebody can
10 explain it to me and I would concede the point, but I
11 don't know if I like putting local agencies on a faster
12 track than the state agency, even though we have
13 Strom-Martin in the offing, because there are all kinds of
14 things that are on different tracks and usually the State
15 is given more lenient treatment.

16 And that being the case, I don't think
17 we'll ever prod the State to move faster, the various
18 agencies, sister agencies that we have to deal with, if
19 we, in our own deliberations, don't take that into
20 consideration on a constant basis. So my own thought is
21 that maybe I would like to delay a compliance order on a
22 city that is in this situation where they have a
23 40-percent state population.

24 MR. SCHIAVO: The purpose of this
25 particular compliance order is not because of program

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1 implementation issues. It has to deal with -- they have
2 some inherent problems with the numbers and we need to get
3 those more accurate. So as a product of making those more
4 accurate, that we have a better opportunity to focus on
5 program implementation once that's done.

6 Back to your issue about timing, there is a
7 timing issue. I would like to acknowledge that the state
8 agencies have until the year 2004 to meet their 50 percent
9 diversion, which is beyond our 2000. However, then we
10 have the potential of extensions.

11 BOARD MEMBER ROBERTI: Give me that again.

12 MR. SCHIAVO: AB 75 requires that state
13 agencies meet the 50 percent goal by the year 2004, so I
14 just wanted to bring that out, versus our through the year
15 2000 for jurisdictions. So there is a timing issue with
16 that.

17 MR. RYAN: Mr. Chairman.

18 CHAIRMAN EATON: Yes. Mr. Jones first.

19 BOARD MEMBER JONES: Mr. Chairman, I think
20 one thing, though, is SB 1066 allows for six years' worth
21 of extensions which would ultimately comply with the state
22 thing. But I think one of the issues with your compliance
23 order, it was stated by the City that they're working on a
24 new generation study, it's not done.

25 MR. SCHIAVO: Right.

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1 BOARD MEMBER JONES: Clearly they're making
2 a good faith effort towards getting there. This
3 compliance order just basically quantifies it and helps
4 them get through it.

5 What I would look at in the compliance
6 order -- just a suggestion -- is to look at the impacts of
7 the prison on programs and on -- look at what their buy
8 recycle program is, because I know Paul and Gordon are
9 working hard to try to do this stuff. So use the
10 compliance order to bring that information back to us and
11 let us determine that, in fact, the City is doing the
12 programs where it has control, and the state agency, which
13 is such a big part, is doing this. And if it's zip, tell
14 us it's zip. If they're not -- you know, we need to know
15 that because the numbers in '95 and '96 were 11 percent,
16 4 percent and 11 percent. You're doing programs,
17 automatic. But they know that they've got a problem with
18 the numbers that the compliance order accepts.

19 CHAIRMAN EATON: All right. But --

20 BOARD MEMBER ROBERTI: I take it that the
21 City is not resisting the compliance order.

22 MR. RYAN: No. That's my understanding.
23 Mr. Rodkey may want to add something to it, but as the
24 Board has pointed out, the City has undertaken the study.
25 It's almost 80 percent complete. We're just going to

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1 survey a couple more businesses and then we can get
2 together with staff.

3 I think this is helpful, if we could come
4 back with our numbers and things and work with the Board
5 staff to look at the whole issue of the prisons because
6 it's obviously one of those complicated issues that we all
7 need to take a look at and work through, not only as
8 individual jurisdictions, but then with the Board's help
9 as well.

10 BOARD MEMBER ROBERTI: One last point.

11 CHAIRMAN EATON: Sure.

12 BOARD MEMBER ROBERTI: In view of that, I
13 intend to vote for this but with the proviso that I really
14 am very, very reluctant to vote for compliance orders or
15 any other directives where the State is so terribly
16 involved in local jurisdiction in which we're on sort of
17 two-track systems, Strom-Martin notwithstanding. I
18 recognize that as an attempt to make a change, but in my
19 almost a year now on the Board, what strikes me as
20 startling is the lack of mandate on the State in just
21 about everything, many things that we do, where we mandate
22 so many other areas, and if -- so with that in mind, this
23 was just an opportunity to bring that up, but I recognize
24 the City of Blythe probably welcome the compliance order.

25 MR. RYAN: We'll be able to show what the

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1 prisons do versus the City does in terms of their
2 diversion, and hopefully we can come back when we make the
3 presentation of the findings to discuss this with the
4 Board again because that may be the time where we may ask
5 the Board for additional assistance in looking at this
6 issue.

7 BOARD MEMBER JONES: Mr. Chairman.

8 CHAIRMAN EATON: Mr. Jones.

9 BOARD MEMBER JONES: I have a question now.
10 If -- as I understand it, and I may not understand it
11 correctly, but I know you're voting on this one, but if a
12 state agency is impacting a local city which plenty of
13 them are -- I operated in a few of those cities where
14 state agencies didn't do anything -- and we're not going
15 to put that city on compliance order, then what are we
16 going to do? Are we going to accept it, subtract it, or
17 fine them? I just want to throw that out as a thought
18 because the compliance order gives the cities the
19 opportunity to lay out what their programs are going to be
20 and what their solutions could be and focus on what the
21 problem is. I think it's a tool that I look at as being a
22 tool that can help cities and counties.

23 It gives them time to focus, and it also
24 gives them time to put in writing and in a plan what
25 happens -- how that agency has impacted their efforts. So

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1 I'm just -- I know what you're trying to do. You don't
2 want to penalize the City because some governmental agency
3 isn't doing its job, but we only have so many options.

4 And I just don't want to go down a road and
5 not know where we're going because City of Sacramento may
6 end up saying to hell with all the programs. We've got
7 plenty of businesses here or government agencies, and I
8 don't want that. I just want to try to get a little
9 thought on maybe how we formulate the compliance orders to
10 get to what we need.

11 CHAIRMAN EATON: Senator Roberti.

12 BOARD MEMBER ROBERTI: The reason why it's
13 a problem is the politics of it. A compliance order
14 unavoidably gives the aura that somebody's not doing their
15 job. We're trying to help you, but you're a basket case.

16 So when an official -- when an official has
17 to face the voters, that's going to be something they've
18 got to explain, even if it's the fact that the University
19 of California is in their district or Blythe or Chino or
20 whatever it is has umpteen number of prisons, they've got
21 to explain that away.

22 Now, the way to put pressure on the
23 officials is by putting pressure on them. What we're
24 doing is putting pressure on the wrong officials. We're
25 putting pressures on the City of Blythe or the local

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1 governments who are usually fortunate enough to have a
2 university or a college, and that's what where we're
3 putting political pressure. The political pressure should
4 be on the state agency and they're getting away Scott
5 free. That's why the recycling rate in some state
6 agencies is so pathetically low.

7 So that's the point of it. Logically what
8 you say is absolutely true, absent the politics, and the
9 politics is where you put the pressure, where you beam the
10 spotlight, and every town that has a prison or a
11 university -- and sort of talking with the Chair,
12 universities are even worse than the prisons. They are so
13 jealous of their jurisdictions, and probably that's where
14 we could put the greatest pressure because their
15 constituencies are very sensitive to the environmental
16 questions, that we just are spotlighting the wrong people
17 for the opprobrium of telling them they're basket cases,
18 whereas the state is the basket case.

19 CHAIRMAN EATON: I think there's a couple
20 of things that are there. I think not only the schools,
21 but as you know, it's really bent the board over the last
22 year, year and a half, really that have moved both in
23 terms of the project recycle, which is state agencies'
24 recycling efforts as well. And I look at as we move
25 into -- we're going to have plenty of opportunity to go to

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1 the legislature and explain to them some of the things
2 that need to take place, as we have gone year in and year
3 out to explain to them, that without the cooperation of
4 all agencies, whether they be state agencies, local -- I
5 don't think we have much to do with the federal because of
6 the federal preemption, unfortunately -- but if we are
7 going to come up with the solution over the next several
8 years, that obviously has to take place.

9 I think in addition, and hopefully what
10 we'll be able to do with regard to some of the workshops
11 that are taking place, is to have staff make a
12 presentation during the either -- if not disposal
13 reporting, because that may be one of the factors that we
14 have in the November meeting what is really the state of
15 the State, so to speak, as it relates to the
16 jurisdictions' overall efforts.

17 But as you saw, we had the City of Vallejo,
18 I believe, just a couple of weeks ago that had a local
19 school district that they couldn't get to participate and
20 that this had a tremendous amount of impact on that.
21 Hopefully what we can do is to work through them and
22 identify them, but I also think that is where we, as a
23 board, have some discretion, to take those policy issues,
24 whether it be policy issues or political issues, and craft
25 a solution. And that's kind of our corrective action when

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1 we'll hold it up to those to go -- and I would like to be
2 able to invite, and maybe what we should do is after we've
3 had this series of discussion, is maybe the Board should
4 perhaps contemplate drafting a letter to the appropriate
5 individuals at the state level, whether they be the
6 legislative leaders or the executive branch, in trying to
7 point out the dilemma that's faced not only by local
8 jurisdictions, but some of the other state agencies in
9 doing the work in order to solve their problems. That
10 will take away the compliance issues or whatever, and I
11 think we're going to see this issue reoccur as they ask
12 for extensions, and we may not be in a position but to say
13 yes, you have to have an extension because if everyone
14 else gets one, so should you.

15 BOARD MEMBER ROBERTI: The lenient
16 treatment of state agencies, goes back, way back, even
17 covering my period. I mean -- and --

18 CHAIRMAN EATON: But that was then and this
19 is now.

20 (Laughter)

21 BOARD MEMBER ROBERTI: I really sense it's
22 becoming a problem.

23 CHAIRMAN EATON: Tremendous.

24 BOARD MEMBER JONES: Mr. Chairman.

25 CHAIRMAN EATON: Mr. Jones.

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1 BOARD MEMBER JONES: First off, I think
2 this is a good conversation, and I appreciate the
3 discussion, but under SB 1066, and something for the
4 Senator to think about and the other Members, a city that
5 comes for an SB 1066 extension has got to prepare a plan
6 of how they plan on attacking, what they plan to do
7 through this extension. That may be the perfect time for
8 the cities and counties that have these state agencies to
9 weave in a plan that puts the burden -- because I think
10 you're right. Political pressure is right, but the way
11 the bill is written, I just I'm having a hard -- but I
12 understand what you're saying.

13 But in that plan that the cities have to do
14 might be the place to focus the spotlight earlier than
15 2004 on some of those state agencies because they could
16 identify them as part of their plan under SB 1066 on how
17 they're going to use this extension to meet the mandate.
18 So that might be something we think about, is how we craft
19 that and put that together to get both the tool you want
20 and get these jurisdictions the time to meet the mandate.

21 CHAIRMAN EATON: All right. I still have a
22 couple to get through in this item before we take a break,
23 Mr. Greco, Mr. Boyd, and Mr. Hamilton, Agenda Item Number
24 14, Inyo County and Inyo Regional Waste Management Agency.

25 MR. HAMILTON: Good morning, Mr. Chairman,

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1 Board Members. Chuck Hamilton, Program Director for Inyo
2 County.

3 I have a couple of brief comments I would
4 like to make and I have a map I want to show, but I'm
5 afraid to touch this so the lights don't go out again.
6 I'd like to comment on our efforts with regard to the
7 reporting requirements and the diversion requirements.
8 Inyo County has 18,000 residents and we're spread out over
9 10,140 square miles and we operate five landfills and four
10 transfer stations. We are the second largest County
11 geographically in the state, and to drive between one of
12 our landfills between Bishop and Tacopa, you see at the
13 bottom of the screen it takes about four and a half hours.
14 And that's the equivalent, I understand, the same kind of
15 drive between Sacramento and Bakersfield I've been told.

16 I mention this because the County is large
17 and the staff is small, and we welcome your staff's
18 assistance. In addition to overseeing the solid waste
19 program for the county, our department oversees the parks
20 and recreation. We have 15 county parks and campgrounds.
21 We oversee the motorpool program, senior program,
22 libraries, museums and public transit. With regard to
23 implementing diversion and recycling programs, we feel we
24 have a very good program, a number of programs, and feel
25 very good about our efforts.

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1 Since our base year, we purchased a tub
2 grinder that will divert wood, brush, and yard waste. We
3 also implemented a Christmas tree recycling program, phone
4 book recycling program, junk mail diversion, greeting card
5 recycling, newsprint drop-offs, metal recycling, white
6 good recycling, automotive batteries, waste oil filters,
7 antifreeze, cardboard and a material exchange drop-off at
8 our landfills where the residents will bring in items and
9 drop them in a certain area and that allows other
10 residents to come in and they find a use for that item and
11 pick it up and take it back out.

12 We've also implemented gate fees to
13 encourage recycling of construction and demolition debris.
14 We have numerous public education programs including TV
15 commercials and radio commercials.

16 We have implemented our programs and we're
17 meeting our diversion goals. I recognize we had reporting
18 problems in '95-'96, but we can show how these occurred
19 and we can correct the inaccuracies. And over the past
20 two years our reporting numbers look very good. We've
21 levelled off.

22 We feel our base year is in place, our
23 programs are in place, and they're very successful. We
24 want to work with your staff to correct the past
25 inaccuracies, and we have a very good working relationship

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1 with your staff. One of your staff members visited Inyo
2 County here a couple of weeks ago and toured all of our
3 major sites and looked at the recycling programs we have
4 in place.

5 I have with me today Mr. Andy Boyd with the
6 city of Bishop and Mr. Jim Greco, the consultant that
7 we've hired to help us sort out the numbers and I know
8 they have a couple of comments.

9 CHAIRMAN EATON: All right.

10 MR. BOYD: Good morning. I'm Andy Boyd,
11 the Director of Public Works for the City of Bishop. The
12 City of Bishop is the only incorporated city in the County
13 of Inyo. Historically we have allowed Inyo County to
14 handle waste management. Formerly, about 25 years ago,
15 the City and County agreed that Inyo County would be the
16 waste management agency there.

17 Inyo County is the one that collects the
18 revenue to run the waste management program, and they also
19 handle all the franchises with waste haulers. The City of
20 Bishop, though, has taken AB 939 very seriously. Even
21 though we just have a population of about 3,800, we
22 realize that we generate a fair bit of waste through our
23 sidewalk safety program and our utility replacements, and
24 we have found some innovative ways to be able to divert or
25 recycle a 100 percent of those inert wastes.

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1 We recognize that there was a problem with
2 the numbers in the early to mid '90s, and one of the
3 reasons for that has to do with -- everyone in the north
4 end of Inyo County is from Bishop, whether they're in the
5 city limits or not. So with the surveys at the landfill,
6 when someone was asked if they're from Bishop, they would
7 probably say "yes." So the numbers got skewed because
8 people really didn't realize whether they were in the city
9 or not in the city.

10 So anyway, I know that Inyo County has been
11 working on the numbers. We've had an opportunity to meet
12 your staff here and we have met them in Bishop, and we
13 look forward to meeting with them again and continuing
14 with this program which we think is very successful.

15 Thank you.

16 CHAIRMAN EATON: Thank you.

17 Mr. Greco, anything to add?

18 MR. GRECO: Yes, Mr. Chairman. I'm going
19 to try to be brisk. I don't want to belabor it.

20 For the record, my name is Jim Greco. I'm
21 an independent solid waste management consultant doing
22 business as California Waste Associates.

23 Mr. Chairman and Members of this Board, as
24 I understand the agenda item, staff has determined that
25 the agency -- the City and County -- are implementing a

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1 significant number of programs; number two, their high
2 diversion rates; and number three, the inaccuracies in the
3 reporting system can't substantiate those high levels of
4 diversion. What I would briefly like to do is to go
5 through a few exhibits. I was asked --

6 CHAIRMAN EATON: Could you delay for just
7 about five minutes? When I started this item, it was
8 about a half hour ago and the court reporter needs to take
9 a five-minute break, so rather than -- some of the members
10 as well. So if we could just take a break and come back
11 in ten minutes.

12 (Brief recess taken.)

13 CHAIRMAN EATON: All right. Back in.

14 I will have a couple of ex parte
15 communications I think which a couple of Board Members may
16 have also had. I spoke with -- a meet-and-greet with Art
17 Casarian (phonetic) and Paul Ryan dealing with the waste
18 diversion issues. I think Senator Roberti also spoke with
19 Mr. Ryan and had a meet-and-greet as well. I don't want
20 to speak -- if there's anyone in addition to that. Art
21 Casarian.

22 BOARD MEMBER PENNINGTON: Mr. Chairman.

23 CHAIRMAN EATON: Start to my right and
24 moving left again. Switch you a little bit there,
25 Mr. Pennington.

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1 BOARD MEMBER PENNINGTON: That's the
2 problem. I worry about that starting to the right and
3 moving to the left. You're supposed to be the other way.

4 BOARD MEMBER MOULTON-PATTERSON: Yes,
5 Mr. Chairman. I also had the same one you had, but I did
6 want to report two others. I spoke with City Attorney
7 Greg Diaz from the City of Lomita briefly about AB 939 in
8 that city, and also I had a message, a phone message, from
9 Verlon Jensen regarding an item, Tierra Verde.

10 Thank you.

11 CHAIRMAN EATON: Mr. Pennington.

12 BOARD MEMBER PENNINGTON: Yes, sir. I
13 spoke with Art as well.

14 BOARD MEMBER JONES: Mr. Chairman.

15 CHAIRMAN EATON: Mr. Jones.

16 BOARD MEMBER JONES: I said "hi" to Art and
17 to J. Michael Huls and to the program person from the City
18 of Paramount, and I'm sorry I forget her name, and to Rick
19 Best on RPPC. I didn't get a chance to say "hi" to other
20 friends of mine in the audience, but they know who they
21 are.

22 CHAIRMAN EATON: All right. Mr. Greco.

23 MR. GRECO: Yes, Mr. Chairman. I will try
24 to be brisk going through here, but I really want your
25 attention.

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1 CHAIRMAN EATON: Are you doing a new ways
2 generation study, by the way?

3 MR. GRECO: Yes.

4 CHAIRMAN EATON: Have you done it?

5 MR. GRECO: Yes.

6 CHAIRMAN EATON: I didn't have it in my
7 record. Okay. Go ahead.

8 MR. GRECO: What -- as I understand it, the
9 agenda item is the jurisdiction's aren't running programs,
10 high diversion numbers, inaccuracies with reporting, real
11 serious questions about how high the diversion numbers --
12 where the diversion came from.

13 If I were to look at the numbers and when I
14 did, and I talked with the County, I talked with the City,
15 I tried to understand, I still had some doubts. So the
16 way this is structured and fashioned, I can see where it
17 leads you down the path, we've got to correct this
18 problem. The City and County recognize that.

19 I went to Bishop Sunday night. I spent all
20 day Monday in Bishop. I came back yesterday and we met
21 yesterday. I saw a lot of diversion activity. Mr. Furey
22 was there. He saw that. So I was trying to reconcile the
23 numbers and see how it fits.

24 Basically I want to refer quickly to two
25 exhibits. I folded the page so that I want to look at the

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1 documentation of reporting year inaccuracies. I think if
2 you can just about envision any kind of disposal reporting
3 problems, the County has experienced it. There were
4 reporting errors where, you know, you take the BOE form,
5 the waste accepted, you're supposed to deduct the diverted
6 materials before you pay the landfill fee. Sometimes the
7 waste accepted was reported on the origin survey form,
8 sent in to the Waste Board, and the Waste Board's Disposal
9 Reporting System, it was carried through. Sometimes there
10 was the origin survey week tonnage. That's only supposed
11 to give you the allocation amongst the jurisdictions, but
12 that week was reported through the Disposal Reporting
13 System, and so it was underreported. So you're getting a
14 picture here of fluctuations, there was a transposition
15 error, there were math errors. There was allocation
16 errors between the City and the County, and we addressed
17 that and formed a regional agency which your Board
18 approved in July.

19 Conversion, there are no scales at the
20 landfill, but then on top of that, there's the question of
21 what conversion factor do you use. For a period of time,
22 up until -- I think it was March of '97, the County used
23 300 pounds per cubic yard of (inaudible) compacted waste
24 coming into the landfill, and then they changed to 500
25 pounds per cubic yard from March of '97 to the end of '97,

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1 and then they changed back to 300 pounds per cubic yard.
2 You might say why. My understanding is
3 they were going through a BOE review and audit and
4 discovered that. And then there was -- and you probably
5 haven't heard this one, and it's probably going to provoke
6 some humor, but over a two-and-a-half-year period nearly,
7 there was an 86-year-old gentleman Title 5 employee who
8 was the gate attendant at the landfill. We finally
9 uncovered the daily log records of the week before he left
10 and the week after he left, and there were 33 percent more
11 notches for the self-haul vehicles, the number of bags,
12 and the trucks coming into the landfill than there was
13 since. We came up with a methodology, we think
14 conservative.

15 What we tried to do is to get this
16 information as soon as we can over the last two weeks. We
17 shared it with staff. We had meetings last week. We had
18 meetings yesterday. I understand, we understand we can't
19 unload this on you and staff and say see, we explained it,
20 understand it. It's got to be digested.

21 So where we're going with this if we
22 quickly turn to the next page, I'm just going to refer to
23 the diversion. As we looked at the County BOE disposal
24 records, we made a correction for that 10-month period
25 where the 500 pounds per cubic yard. We brought that down

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1 to 300 pounds per cubic yard. That really only affects
2 '97, so as far as the biennial review for '95-'96, it's
3 not relevant.

4 We looked at the out-of-county disposal.
5 We put that in. We looked at the gate attendant problem
6 and tried to make a reasonable estimate, and so you see
7 that the revised disposal quantities factoring in those
8 inaccuracies shows 34 percent in 1995, 55 percent in 1996,
9 dropped down to 46 percent and then 30 percent in 1998.

10 And then if you look at that high readymix
11 operation, that did divert amounts of sand and gravel, and
12 that's discontinued in the middle -- the end of '97. We
13 factored that in, so you see that far right our diversion
14 rates are 19, 15, 27 and 30.

15 Where this all is bringing us to,
16 Mr. Chairman, is that the County and City and agency
17 realized there's reporting problems. We feel we have the
18 explanation, but we didn't provide them to staff in time.
19 So what we're asking is if it takes a week or takes a
20 month, we're willing to be scrutinized carefully on this,
21 review it. We would like, if it's at all possible, a
22 delay in the compliance order. If after that week or
23 month or two months you say huh-uh, we want you under a
24 compliance order, the regional agency is willing to
25 accelerate the deadline date for the compliance order, May

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1 5th, May 3rd next year. Move it up to March 31st so we're
2 still on the same ultimate end point track.

3 Now in closing, I know there's a concern
4 about consistency, and what we're asking for is -- what is
5 difficult is, you know a compliance order is serious
6 business back home in Bishop, and the way this
7 particularly reads is failure to implement the SRRE
8 because we can't determine our numbers are right. So
9 we're saying we think we have the answer. We tried
10 feverishly to explain it to staff. We're asking for that
11 window of time, whether it's a week, a month, to delay
12 issuing the compliance order. And if you feel it's still
13 needed, accelerate the end point from May 3rd to March
14 31st or if you feel more. So we think we're close, we
15 really think we're close, and we've shared the information
16 with staff, and we'd be willing to work closely with them.

17 CHAIRMAN EATON: Mr. Greco, you've been
18 here on past occasions and I appreciate it. I think that
19 you are close, but how we have handled these situations
20 with other jurisdictions that have brought in material
21 very late, especially given the prenotice that it had, if
22 we go ahead, put the compliance order in, and then if the
23 numbers work out, staff is instructed to bring back and
24 the compliance order is lifted at the next Board meeting.

25 So that will give you automatically your

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1 four weeks or your five weeks in which to solve the
2 problems with the staff or what have you, or if they
3 continue to come back, resolve any outstanding issues,
4 but that's the consistency there. It's not meant to be
5 that, and if you think it's there, then they come right
6 back and solve the problem. It's lifted ASAP.

7 I think that's how we've looked at these,
8 but I'll leave that up to the other Board Members as well.
9 But that's how we've treated other jurisdictions as we
10 started this process, I believe.

11 BOARD MEMBER ROBERTI: Mr. Chairman.

12 CHAIRMAN EATON: Senator Roberti.

13 BOARD MEMBER ROBERTI: Maybe some order
14 should be issued on Inyo County, but I don't want to use
15 the word "compliance order." Compliance orders, once
16 again, puts the political pressure and political adverse
17 spotlight, giving the inference that Inyo is not meeting
18 its numbers. And it just strikes me that we put -- we mix
19 apples. I'm saying "we," generically we mix apples and
20 oranges here. The spotlight of shame should go on people
21 who do not meet their numbers, not on people who come up
22 with mixed up numbers because the jurisdiction is so
23 small, and we let Scott free state agencies which are much
24 more able to come up with better numbers than the County
25 of Inyo.

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1 So let's call it something other than a
2 compliance order, if we have the right to do that, but a
3 compliance order puts the spotlight of shame on somebody
4 who, I think, the general feeling is just don't have good
5 numbers, not that they are not coming up with numbers that
6 meet the diversion rate because -- maybe I'm wrong, but as
7 I gather from our staff, the feeling is that Inyo probably
8 has sufficient numbers except the numbers that they've
9 given us are all mixed up.

10 Now, when I have voted in the past, to my
11 knowledge, on poor numbers, it was basically where the
12 issue was fairly clear, although my staff says the City of
13 Hawthorne was a different case. It was in my mind clear
14 that they weren't meeting their diversion rates by
15 anybody's study, but one reason we have a compliance order
16 is to put the spotlight who aren't eradicating waste. It
17 is not to mess around with numbers. And I sense that
18 we're so wound up with numbers -- positive, negative,
19 coming in with numbers -- that reducing waste is
20 secondary, whether we're talking about people reducing
21 waste positively or people who aren't doing their job.
22 We're in a numbers game that isn't even an art, let alone
23 the science. Part of the fault here is Inyo because this
24 isn't the first time Inyo's been before us. But Inyo is a
25 small jurisdiction, which my counting the City of L.A. has

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1 taken everything away from them except Mammoth, which we
2 can't move to Los Angeles.

3 CHAIRMAN EATON: Yet. Yet.

4 BOARD MEMBER ROBERTI: So we understand, on
5 this board, that Inyo probably has a specific problem. So
6 I don't mind voting for an order, but I don't like calling
7 it a compliance order because all these other
8 jurisdictions taught me they view compliance order as the
9 order of shame. They can't do their job, and jurisdiction
10 has me moved away from that. Now, maybe Inyo doesn't know
11 how to do bookkeeping, but that's not why we're here.
12 We're here to reduce waste, and it does not strike me that
13 that's what Inyo's problem is.

14 CHAIRMAN EATON: Well, let's find out from
15 staff what the compliance order has in it. Maybe that's a
16 beginning. My understanding of what the compliance order
17 is, it's just not numbers. There are other things as
18 well, or is it just numbers.

19 MR. SCHIAVO: In this particular case, it's
20 the lack of accurate numbers. And I can't say -- again,
21 in this particular case for '97 and '98, at this point in
22 time, we do mutually agree with Mr. Greco that it looks
23 like they have their act together for '97 and '98. '95
24 and '96 is all over the place. So there's no
25 disagreement.

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1 CHAIRMAN EATON: Let me go to the next
2 question and ask counsel, then. The second part, if I
3 heard you correctly, is -- if we don't call it a
4 compliance order, is there something where the Board can
5 just sort of describe it, issue an order, but maybe not
6 put the modifier I guess is probably the English prelude,
7 or is this what we're bound by?

8 MR. BLOCK: The orders are issued under
9 Public Resources Code Section 41825, and what they're
10 called is compliance orders in the statute. Hence, that's
11 where the name comes from. Statute doesn't provide any
12 other sort of tool for dealing with this issue.

13 The other issue I think it potentially
14 raises is an issue as to whether we want it to have
15 different names for other jurisdictions depending on their
16 circumstances. That's not to say that the Board couldn't
17 go there, but that's the reason it's called a compliance
18 order. Essentially we have to cite to that statute to
19 issue whatever it is.

20 BOARD MEMBER ROBERTI: And that statute
21 deals with diversion rate.

22 MR. BLOCK: It's the biennial review
23 statute.

24 BOARD MEMBER ROBERTI: So the strong
25 inference is that they are not --

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1 CHAIRMAN EATON: Here's the kind of
2 inference that we, I think, have come up with. Their
3 biennial reviews, where are they with respect to that?
4 Are they okay? They submitted their --

5 MR. SCHIAVO: As far as submittal --

6 CHAIRMAN EATON: We've been the '95-'96
7 with Inyo?

8 MR. SCHIAVO: Right.

9 CHAIRMAN EATON: See, Senator, that's the
10 problem long before. As we get down to these last 10 or
11 15 or 20, the ones hopefully in San Luis Obispo, we will
12 then have ended, that since about 1995 or '96, these have
13 just been hanging out there.

14 BOARD MEMBER ROBERTI: I understand that.

15 CHAIRMAN EATON: And that's not an excuse,
16 but I am saying that at least with regard to what's
17 happening here, that kind of mixes apples and oranges, as
18 you said, because what we're now dealing with is '97 and
19 '98, but in order to get to the other provisions under the
20 law, from my understanding, is we have to go back to '95
21 and '96, I think when Mr. Pennington was Chair, and upon
22 my ascension in February, we had just received an
23 article -- you may or may not have been here at the
24 Board -- about the Board bending over backwards and not
25 taking care of the cleanup back in '95 and '96.

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1 BOARD MEMBER ROBERTI: I think I got it.

2 CHAIRMAN EATON: It was the front page of
3 the Bee. So unfortunately, all the points that you raise
4 are not only valid, but they're pertinent to what we're
5 going to have to do. We're stuck here, so what we're
6 trying to do is correct that. My understanding is, if I'm
7 not mistaken, as we move through the process, these ducks,
8 through no fault of us, have to be lined up in order. And
9 that's what we're trying to do, is to get them all in a
10 line, and then what we're able to do is then make the
11 allowances. That's how it was explained to me.

12 BOARD MEMBER ROBERTI: I have an analogy
13 that I have to throw out. I don't have to, but I want to.

14 (Laughter)

15 BOARD MEMBER ROBERTI: It's kind of like
16 the person who's doing their income taxes, and we ignore
17 the person who's got this huge loophole they're running a
18 truck through, and somebody who can't understand the
19 instruction sheet that's been sent to them is getting the
20 book thrown at them. And not that everybody shouldn't try
21 to understand the instruction sheet, but I think that's
22 what's happening to Inyo here.

23 In past times, Inyo has been before us and
24 I haven't been so sympathetic, but on this one, I am. And
25 I am reluctant to vote a compliance order on a

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1 jurisdiction which, by our own staff's estimate, are
2 probably in the ballpark with improved numbers.

3 MR. GRECO: Can I have one more comment?

4 BOARD MEMBER PENNINGTON: Mr. Chairman.

5 CHAIRMAN EATON: Mr. Pennington.

6 BOARD MEMBER PENNINGTON: Is there anything
7 to prohibit us from putting this off for two months and
8 letting the staff work with them over the next two months
9 and bring it back to the Board then?

10 CHAIRMAN EATON: Mr. Pennington, I would
11 just assume not have to come back as we move into 1066.
12 If he says he needs two weeks, then you can make a motion
13 to give him two weeks or something along those lines, but
14 I really believe it's important on this Board not to
15 continue into next year any more of these items.

16 We're beginning a 1066 program. We got
17 saddled with this and we're here. Let's get it cleaned
18 up. I think we are no more -- Mr. Schiavo, how many more
19 have we got left of these?

20 MR. SCHIAVO: I believe there's 37.

21 CHAIRMAN EATON: And then it's a whole new
22 ball game. I think putting it off is just to continue the
23 agony, both for them and for us. So if you want to just
24 have them come back and see if they can work it out, we
25 can continue this particular item. That's a valid motion.

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1 Or you can vote it up or down. It doesn't make a
2 difference to me. I just don't think we just should try
3 and delay for the sake of delay. Let's try and clean them
4 off our plate and get on with it.

5 BOARD MEMBER PENNINGTON: Mr. Chairman, I
6 agree with you. I'm sympathetic to what the Senator says
7 and I'm sympathetic to Inyo's problem. I'm not sure
8 exactly what to do. I was only asking that as a
9 suggestion, that we might look at something that gives
10 them some time since staff seems to be feeling that
11 they're fairly close on the numbers, but I hate -- you
12 know, I'm in a dilemma, too.

13 CHAIRMAN EATON: Unfortunately, there's two
14 items here. There's a '95-'96. That's four years old.
15 That's stale. They haven't addressed that issue yet.
16 Have you?

17 MR. GRECO: Yes, we have.

18 CHAIRMAN EATON: Why are you coming to us
19 in 1999, trying to solve '95-'96?

20 MR. GRECO: We're just trying to explain
21 the inaccuracies that were identified in the agenda item.
22 That then forced us to go back into looking at all the
23 source information, why there are inaccuracies, what could
24 give us more credence as far as the numbers.

25 CHAIRMAN EATON: What brought them here

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1 today, Mr. Schiavo?

2 MR. SCHIAVO: The inaccuracy of 1995 and
3 '96 numbers. It's a biennial review for '95 and '96.

4 CHAIRMAN EATON: So we are reviewing
5 something that's four years old. So my question to you is
6 why, given all this stuff that's taken place, why in '96
7 and '97 weren't these resolved? Now, some of that is the
8 Board's problem, but I don't want to not get away from the
9 fact that we're talking about '97 and '98 and they've
10 corrected those things, but we're talking about '95 and
11 '96 and that hasn't been corrected.

12 MR. GRECO: I can explain.

13 CHAIRMAN EATON: Explain the four-year
14 delay to me.

15 MR. GRECO: I will. '95-'96 was -- the end
16 report was submitted in August or September of '97. In
17 1997, your staff -- I think Mitch Weiss, Denise Hume --
18 recognized there's some problems here with Inyo County and
19 they helped -- the assistance there put the numbers
20 together. That's what led to better reporting for '97 and
21 '98. So -- and the other part is it looked like these
22 were behind us, and the jurisdiction and I, myself, who
23 worked with a number of jurisdictions, didn't know which
24 way this Board might go because they were implementing
25 programs. And that's the conflict I'm struggling with.

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1 When I went there, how many real
2 jurisdictions have a tub grinder, do that contaminated
3 soil land farming, do the sand and gravel and concrete.
4 It looked like they were really doing things, but
5 Mr. Chairman, we did know there were a number of problems
6 in '95-'96. They came to light in '97, and staff helped
7 them straighten out the problems without the use of a
8 consultant. And now we're trying to get through the
9 biennial review.

10 CHAIRMAN EATON: Well, Mr. Greco, I hope
11 the next time there's a newspaper article attacking the
12 Board for their lack of taking up issues during 1995-'96,
13 that I'll at least see your quote in the paper saying that
14 the Board tried to bend over backwards to be of assistance
15 to the rural counties because that's my frustration. I
16 inherited that. I'm trying to clean up this stuff. And
17 you know, when we need some help in terms of the world of
18 public opinion, I find it very silent when it relates to
19 those who came and asked for our assistance. With that,
20 let's just move this up or down.

21 BOARD MEMBER JONES: Mr. Chairman, I have a
22 question. Two things have to be realized. When did you
23 come to work for Inyo County on this item?

24 MR. GRECO: On this item?

25 BOARD MEMBER JONES: Yes.

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1 MR. GRECO: Three weeks ago.

2 BOARD MEMBER JONES: Three weeks ago. So
3 we've gone from 1995 until three weeks ago, or 1997 until
4 three weeks ago to try to get resolution to this.

5 MR. GRECO: Can I --

6 BOARD MEMBER JONES: Wait a minute, Jim.
7 Because the consistency issues -- I'm having a real
8 problem with this because we, as a Board, have always held
9 that the compliance orders are the first step to try to
10 help a city or county, and now today we're hearing that
11 they are -- I forget what the word was -- basket cases or
12 something else.

13 I don't view it that way, and I want that
14 clear. I do not view these jurisdictions as basket cases.
15 I'm pretty sure that Chuck Hamilton and the head of public
16 works for the City of Bishop could read the instructions
17 and the people in their organization could read the
18 instructions. When I got briefed on this -- I've been in
19 Inyo County, trying to help them more than once -- or
20 actually a couple of times -- to try to resolve the
21 operational issues. When I saw the high diversion numbers
22 for inerts, I didn't really have that much of a problem
23 with that. I don't know how accurate it is because they
24 used inerts to outline cell construction. They couldn't
25 build a lift without putting in a border and then start

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1 placing waste against that lift. That's a structure
2 issue. It goes to AB 939 as positive use.

3 Now, once we get -- now I understand they
4 can build the lifts without them, so there goes their
5 diversion part of it, anyway. As they get better on the
6 operating side, they're going to lose some on the
7 diversion, but they can mix that because they don't have
8 good cover material in some of those sites. So they can
9 mix that material and get a better cover material and it
10 would still go to ADC.

11 But I looked at the numbers, and they're
12 all over the board. I don't look at numbers as being the
13 end all. I look at numbers as being an indicator to
14 support the programs that are being done. But there was
15 an awful lot of jurisdictions that came to us a month ago
16 and asked us to just delay two weeks, a month, three
17 weeks, two months, and we held to the idea that the
18 compliance order was a formalization of trying to get it
19 done.

20 And as the Chairman said, anybody that got
21 it done sooner could come in front of the Board. He
22 instructed staff. If you get it done in three weeks, put
23 it on the next agenda. We'll get you off the compliance
24 order. And I think that's good policy. I think that
25 makes sense for this Board, and it's consistent, and it

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1 doesn't hurt those jurisdictions that we weren't that
2 convinced by. So --

3 CHAIRMAN EATON: Any other questions of
4 Mr. Greco regarding Inyo? We've got three more speakers
5 in this cluster. Okay. Thank you, Mr. Greco. All right.

6 Mr. Huls, Agenda Items Number 15 and 16, I
7 believe.

8 MR. HULS: Thank you very much, again.
9 I'll talk to Item Number 15 which is La Canada Flintridge.
10 Actually, I guess my remarks are fairly consistent with
11 one exception for both jurisdictions.

12 First of all, they want to thank the Board
13 for its due diligence on trying to resolve the matters at
14 hand in providing local assistance to the jurisdictions.
15 Both cities are committed -- that's La Canada Flintridge
16 and La Puente -- are both committed to improve
17 programming.

18 La Canada Flintridge is currently in the
19 process of planning a green waste curbside collection
20 program, and of course that lies in accordance with the
21 amount of green waste that has been identified in the
22 wastestream.

23 The City of La Puente has a considerable
24 amount of programming, and there is primarily, I think, a
25 problem with the Disposal Reporting System, so our base

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1 year numbers could effect some changes because obviously
2 they're not at minus 55.

3 Both cities do have concerns about the
4 effectiveness, though, of requiring a new base year
5 generation study to correct some of these numbers. The
6 reasons that the current disposal reporting as it is
7 structured in L.A. County will continue, and that will
8 continue to create fluctuations and erroneous numbers in
9 the future, which means we will probably have to come back
10 again sometime after Y2K.

11 We also request that beneficial usage of
12 construction and demolition material at mining operations
13 be excluded from DRS calculations.

14 CHAIRMAN EATON: Any questions of Mr. Huls?
15 Okay. Thank you.

16 Last speaker on this cluster, Mr. Louis
17 Ippolito, I believe.

18 MR. IPPOLITO: Ippolito. It's Italian.

19 Mr. Chairman and Members of the Board, my
20 name is Louis Ippolito. I'm representing -- I think this
21 time is Bell Gardens; right?

22 CHAIRMAN EATON: You tell us.

23 (Laughter)

24 MR. IPPOLITO: There's a couple of agenda
25 items that I'm here for, but I'm pretty sure I'm here

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1 right now for Bell Gardens.

2 We have a lot of interesting situations in
3 L.A., I'm sure you all know. I met Steve Jones and
4 Mr. Roberti down at Glasgo meetings and I really liked
5 what they said. The bottom line is we've got serious DRS
6 problems in L.A. County, and they're kind of reflected in
7 Bell Gardens, as well. One year, our disposal --

8 CHAIRMAN EATON: To translate, that's
9 Disposal Reporting --

10 MR. IPPOLITO: DRS, yes. Disposable
11 Reporting System? I agree.

12 BOARD MEMBER JONES: We're trying to not
13 use acronyms.

14 (Laughter)

15 MR. IPPOLITO: Okay. No more acronyms.
16 One of the problems that we're having is really trying to
17 quantify disposal. So very briefly, we've set up a
18 non-exclusive franchise system in the City of Bell
19 Gardens, and we put the owners on the haulers after a
20 couple of words by Mr. Jones at the Glasgo meeting, and
21 now the haulers are starting to divert and get involved.

22 However, the Disposal Reporting System said
23 we have 25 haulers with the one-week extrapolation, and
24 then we did a daily accounting of everything and we've got
25 52 haulers and almost 50 percent more waste. So we're

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1 having fun trying to quantify the numbers.

2 I think in this particular instance a new
3 base year is appropriate, and we're shooting for 60,000
4 tons. If that happens, we're in compliance. Our programs
5 are good. The County still runs the residential portion,
6 so they are responsible for diversion in the residential
7 sector.

8 But we're only up here to tell you that
9 we're going to be doing a new base year, and thank you for
10 the compliance order.

11 CHAIRMAN EATON: Thank you. All right.

12 (Laughter)

13 BOARD MEMBER JONES: I didn't hear that.
14 What?

15 (Laughter)

16 CHAIRMAN EATON: Members, that completes
17 this cluster. I assume that based upon the activities and
18 the comments that there will be some that want to be
19 pulled from the regular cluster. That's what I'm
20 anticipating, but perhaps --

21 BOARD MEMBER MOULTON-PATTERSON: Thank you,
22 Mr. Chair. I just -- please indulge me. I'm sorry I
23 didn't ask at the appropriate time.

24 Mr. Greco, could you come back up please?
25 You said you just needed a little more time; is that

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1 correct?

2 MR. GRECO: Yes.

3 BOARD MEMBER MOULTON-PATTERSON: If we
4 continued this to our November -- November 16th meeting,
5 could you -- do you feel that you could clear this up?

6 MR. GRECO: I feel we could present all the
7 information by the end of this week, and it's going to
8 take probably meeting with staff, but yes. Yes.

9 BOARD MEMBER MOULTON-PATTERSON: Okay. I
10 know many of you probably don't agree with me, and you've
11 had a long history in this, but I think it is reasonable
12 to give a few weeks for this case, and I would like to
13 move that it be continued to our meeting of November 16th.

14 CHAIRMAN EATON: All right. If I just may,
15 are there any other concerns about any of the other items
16 in this cluster? Okay.

17 So if it would meet with your approval,
18 Ms. Moulton-Patterson, if we just for purposes of the
19 first motion exclude the Inyo Regional Agency, which is
20 Resolution 1999-515, and you can make a separate motion on
21 that, if that's okay. Just procedurally, if that's okay.

22 BOARD MEMBER MOULTON-PATTERSON: That's
23 fine.

24 CHAIRMAN EATON: All right.

25 BOARD MEMBER JONES: Mr. Chairman.

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1 CHAIRMAN EATON: Mr. Jones.

2 BOARD MEMBER JONES: I've got to find out
3 which one.

4 CHAIRMAN EATON: It's --

5 BOARD MEMBER JONES: 515 is Inyo?

6 MR. SCHIAVO: That's the resolution.

7 BOARD MEMBER JONES: All right.

8 Mr. Chairman, I move adoption of Resolution
9 Number 1999-513, 514 --

10 CHAIRMAN EATON: There is no 514.

11 BOARD MEMBER JONES: Oh, okay. I'm sorry.
12 513, 516, 517, 518, 519, 520, 522, 523 and 524 to be put
13 on compliance orders.

14 BOARD MEMBER PENNINGTON: Second.

15 CHAIRMAN EATON: All right. Mr. Jones
16 moves and Mr. Pennington seconds that we adopt Resolutions
17 1999-513, 1999-516, -517, -518, -519, -520, -522, -523,
18 -524.

19 Without objection, we'll substitute the
20 previous roll call. Hearing no objection, so shall be
21 ordered.

22 Ms. Moulton-Patterson.

23 BOARD MEMBER MOULTON-PATTERSON: Thank you,
24 Mr. Chair.

25 I move that Resolution 99-515 be continued

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1 until our meeting of November 15th, 16th?

2 CHAIRMAN EATON: It's the 16th-17th. We're
3 hoping to maybe get the afternoon of the 15th, at least to
4 the November Board meeting.

5 BOARD MEMBER MOULTON-PATTERSON: To the
6 November Board meeting.

7 CHAIRMAN EATON: Okay. Second?

8 BOARD MEMBER JONES: I'll second.

9 CHAIRMAN EATON: Ms. Moulton-Patterson
10 moves and Mr. Jones seconds that we continue Agenda Item
11 Number 14, the Inyo Regional Agency, to the November Board
12 meeting.

13 Without objection, we'll substitute the
14 previous roll call. Hearing no objection, so shall be
15 ordered.

16 All right. Last, I believe, as it relates
17 to these types of items, Mr. Schiavo.

18 MR. SCHIAVO: Okay. Agenda Item 12 is the
19 City of Gardena, and staff is requesting that the Board
20 not approve the base year correction requested and accept
21 staff finding that the jurisdiction is making progress in
22 implementing their Source Reduction Recycling Element
23 programs but cannot determine that they are meeting the
24 diversion requirements due to incalculable or inaccurate
25 numbers, and that the attached compliance order be issued.

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1 And that concludes my presentation.

2 CHAIRMAN EATON: Mr. Ippolito, Gardena
3 calls. He's caught a plane.

4 (Laughter)

5 BOARD MEMBER JONES: He just wanted to
6 thank us again for the compliance order.

7 (Laughter)

8 BOARD MEMBER PENNINGTON: Mr. Chairman.

9 CHAIRMAN EATON: Mr. Pennington.

10 BOARD MEMBER PENNINGTON: I'll move
11 adoption of Resolution 1999-525.

12 BOARD MEMBER JONES: I'll second.

13 CHAIRMAN EATON: All right. Mr. Pennington
14 moves and Mr. Jones seconds that we adopt Resolution
15 1999-525.

16 Without objection, substitute the previous
17 roll call. Hearing no objection, so shall be ordered.

18 Mr. Schiavo.

19 MR. SCHIAVO: Next item --

20 CHAIRMAN EATON: Did you want to say
21 something?

22 MR. SCHIAVO: No, just the next item.

23 CHAIRMAN EATON: I believe then that puts
24 us in Item Number 25.

25 MR. SCHIAVO: Right. Agenda Item Number 25

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1 is Susanville's Source Reduction and Recycling Element
2 approval, and staff is requesting that the previously
3 conditionally approved Source Reduction Recycling Element
4 be approved, and accept the findings that the City is
5 making progress in implementing its Source Reduction
6 Recycling Element and are meeting the diversion
7 requirements.

8 CHAIRMAN EATON: All right.

9 MR. SCHIAVO: And that concludes --

10 BOARD MEMBER PENNINGTON: Mr. Chairman.

11 CHAIRMAN EATON: Mr. Pennington.

12 BOARD MEMBER PENNINGTON: I'll move
13 adoption of Resolution 1999-526 to approve the Source
14 Reduction and Recycling Element for the City of
15 Susanville, California.

16 CHAIRMAN EATON: All right. I'll second
17 that motion.

18 Mr. Pennington moves and Mr. Eaton seconds
19 that we adopt Resolution 1999-526.

20 Without objection, substitute the previous
21 roll call. Hearing no objection, so shall be ordered.

22 Okay. Item Number 26, I believe.

23 MR. SCHIAVO: Item Number 29, La Habra
24 Heights.

25 CHAIRMAN EATON: I'm sorry.

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1 MR. SCHIAVO: Status update, and Chris
2 Schmidle will be making the presentation.

3 MR. SCHMIDLE: I'm Chris Schmidle from the
4 Integrated Waste Board's Office of Local Assistance
5 Southern Section. I'll be presenting Item Number 29 as an
6 information item, a status update on the quarterly
7 compliance order report for La Habra Heights, Los Angeles
8 County.

9 At the June 22nd, 1999 meeting, the Board
10 issued a compliance order to the City of La Habra Heights
11 for failing to implement programs listed in their Source
12 Reduction and Recycling Element and failing to meet the
13 25-percent diversion requirement. The City was originally
14 expected to sign a Local Assistance Plan by September
15 30th, 1999. However, after the September 21st Board
16 meeting, the City requested a 30-day extension to allow
17 the city council more time to review and revise the draft
18 plan.

19 Based on conversations with the City, Board
20 staff concluded that the delay was due to unavoidable
21 problems. After consultation with Board's Legal Office,
22 Board staff granted a 15-day extension. The targeted
23 Implementation Assistance Group and the Office of Local
24 Assistance staff worked actively with the City during the
25 extension period and agreed on a final assistance plan on

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1 October 7th of 1999.

2 Basically the city council for the City of
3 La Habra Heights approved their Local Assistance Plan on
4 October 14th, 1999 and is now in general compliance with
5 the Board's order.

6 Are there any questions?

7 CHAIRMAN EATON: Questions? Hearing none.

8 Okay. I will entertain a motion.

9 BOARD MEMBER JONES: Information only.

10 MR. SCHIAVO: Information only.

11 BOARD MEMBER ROBERTI: Mr. Chairman.

12 CHAIRMAN EATON: Senator Roberti.

13 BOARD MEMBER ROBERTI: Before we leave this
14 series of items, I was wondering if I could make a motion
15 that the Board direct our Project Recycle to work with the
16 Department of Conservation to come back in 60 days with a
17 report on the impact that state facilities, including
18 universities, have on the diversion rate of local
19 jurisdictions.

20 CHAIRMAN EATON: I'm not sure --

21 BOARD MEMBER ROBERTI: Maybe this work has
22 been done. Maybe this work has been done.

23 CHAIRMAN EATON: I'm just trying to find
24 out -- Mr. Schiavo.

25 MR. SCHIAVO: We've looked at the statewide

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1 impact but not on a jurisdiction-by-jurisdiction basis.
2 We do have some information that's been submitted by the
3 various state agencies. That's where we are, but there
4 hasn't been a formalized study regarding this that I'm
5 aware of.

6 BOARD MEMBER ROBERTI: I'm still --
7 Mr. Chairman.

8 CHAIRMAN EATON: I think I know where
9 you're going and I'm just trying to see if we can't place
10 it in the right -- perhaps maybe what we should do, and I
11 don't want to -- ultimately that's where you've got to get
12 to with what you're talking about, but if we've got the
13 Disposal Reporting in November, perhaps in December then
14 we can get back and update as to where the state agencies
15 are and then at that point make a determination what we
16 want to do, at least as it relates to both those agencies
17 in the state, as well as perhaps some of the other
18 agencies because there are a number of them, one of them
19 being our working partner, Caltrans.

20 BOARD MEMBER ROBERTI: Yes.

21 CHAIRMAN EATON: And I just don't want
22 to -- if we're going to throw the net, I want to make sure
23 that we understand that there are four big fishes out
24 there. And I just want to make sure, and I think it might
25 be helpful, at least as we go through the Disposal

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1 Reporting hearing in November, then maybe in December come
2 back with an update on where we are, what jurisdictions.

3 BOARD MEMBER ROBERTI: I'm looking at the
4 jurisdiction specifics.

5 CHAIRMAN EATON: Yes.

6 Mr. Jones and then Ms. Moulton-Patterson.

7 BOARD MEMBER JONES: Just a quick question.
8 Project Recycle has been working with state agencies, and
9 I know that when we get a report from them once a year, we
10 get a problem where some of the state agencies weren't
11 turning that information over. So I think this is a good
12 lead-in to that, but it may take longer than 60 days.
13 Maybe if we -- maybe if the motion would look like that,
14 that staff and exec staff put together the teams that need
15 to be there to come with an item to us in the next --
16 whatever is a reasonable period of time. I don't think
17 they could do it justice in 60 days, just because they
18 haven't been able to --

19 BOARD MEMBER ROBERTI: Come back to us at
20 the next Board meeting with a resolution.

21 BOARD MEMBER JONES: Or just something that
22 we can --

23 BOARD MEMBER ROBERTI: Something we can
24 vote on as far as an actual study itself is concerned.
25 I'm happy myself to defer to staff to tell me what the

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1 proper motion should be, and then you come back at the
2 next meeting and tell us and then we make that motion --
3 and maybe it will take 60 days or 90 days for a study, but
4 what I'm interested in is something jurisdiction-specific
5 so I can see in my own mind's eye those jurisdictions that
6 have a real problem, not statewide. I understand the
7 statewide issue, but something like Blythe or Chino that
8 has all kinds of prisons, we may have a problem; and
9 whoever has got a university --

10 BOARD MEMBER JONES: Yeah.

11 CHAIRMAN EATON: I think if you can come
12 back with a description of a proposed sort of game plan
13 for trying to get at the root of it, it should probably
14 also be brought out, Senator, that these other agencies
15 are supposed to not only have recycling and reuse and
16 reduce, but they also, in addition to reporting to state
17 agencies, are supposed to deposit the funds, believe it or
18 not, in our own IWMA account.

19 And the only reason I raise it is not so
20 much for the idea of being fee hungry, as this Board has
21 been accused of, but really looking at if those monies are
22 available and taking those monies and returning it to
23 those very jurisdictions you're looking at to put the
24 programs in place, if there are truly financial needs and
25 those kinds of things.

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1 I think if you can come back with a
2 description, then we can perhaps craft that. I think that
3 not only there's many facets to it, but it does really
4 dovetail nicely into the 1066 issue because it will be an
5 issue that we're going to be confronted with, and we'll
6 just have to see.

7 So if that is okay and meets with approval,
8 I don't think that we really need to -- just give the
9 staff direction. And if you want a motion, that's fine.

10 BOARD MEMBER ROBERTI: If we don't need a
11 motion, I don't see the point.

12 CHAIRMAN EATON: Okay. Thank you,
13 Mr. Schiavo. And again, staff has done a great job on
14 these in taking us through them. These are the most
15 difficult ones, as we well know.

16 And then I have one other small item before
17 we get to break for lunch. The gentleman from Toro has to
18 fly back east on an emergency basis, so if he could make a
19 quick short presentation very quickly, then we'll break
20 for lunch and come back and handle the rest of the agenda.

21 BOARD MEMBER ROBERTI: Mr. Chairman.

22 CHAIRMAN EATON: Senator Roberti.

23 BOARD MEMBER ROBERTI: Mr. Chairman, still
24 awaiting a report from counsel based on information that
25 they are trying to give as to whether I have a conflict in

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1 RPPC. I intend to recuse myself. Counsel, do I have to
2 say anything more like specifying what companies involved
3 and all that?

4 MR. BLOCK: As long as you're --
5 essentially it's for the same reasons that you have
6 recused yourself in past meetings.

7 BOARD MEMBER ROBERTI: I don't have to
8 mention names of companies or --

9 MR. BLOCK: Since you're recusing yourself
10 from consideration.

11 BOARD MEMBER ROBERTI: Okay. For the same
12 reasons I have stated in the past, so I will go in the
13 audience.

14 CHAIRMAN EATON: Bid you a good lunch. How
15 about that? Even better. And if you do happen to
16 leave -- 1:45 good with Members for lunch break? It's
17 about 10 after 12:00 now. Okay.

18 All right. Mr. Newberg.

19 MS. TRGOVCICH: Chairman Eaton.

20 CHAIRMAN EATON: Yes.

21 MS. TRGOVCICH: Caren Trgovcich with the
22 Waste Prevention and Market Development Division.

23 CHAIRMAN EATON: We're not going to hear
24 the whole item.

25 MS. TRGOVCICH: You're not going to hear

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1 the item. I'd just like to set the context for the
2 Members on what Mr. Newberg will be speaking on.

3 The item, Item Number 32 that you will be
4 hearing later that afternoon, has to do with consideration
5 of compliance agreements for product manufacturers that
6 were determined to be out of compliance due to a
7 certification process conducted for Rigid Plastic
8 Packaging Containers for calendar year 1996.

9 Toro was one of the companies that was
10 identified previously in Category 4, and they have come
11 forward and have been extremely cooperative with staff
12 around their compliance with this law. The compliance
13 agreement that will be presented later for Toro contains
14 many of the similar items that it does for all of the
15 other companies. Toro, however, has a unique
16 circumstance, and it is presented in the compliance
17 agreement that will be up for your consideration later
18 this afternoon, and Mr. Newberg wanted to speak to the
19 agreement as well as the unique circumstance that they
20 have before them in achieving compliance.

21 CHAIRMAN EATON: Okay.

22 MR. NEWBERG: Chairman Eaton, Members of
23 the Board, I appreciate the opportunity to address you
24 this morning on a matter that's of some significance to
25 the Toro Company, and I think perhaps to the State of

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1 California. I do appreciate the special consideration in
2 being able to address you a little out of sequence here
3 due to some flight considerations.

4 If I can pass on a little bit of an aside,
5 our company has a facility in Riverside, California, and I
6 had a meeting there on Monday of this week and decided to
7 fly out on Friday and spend a quiet and relaxing weekend
8 in Joshua Tree and Twenty Nine Palms.

9 (Laughter)

10 CHAIRMAN EATON: What's shaking down there?

11 (Laughter)

12 MR. NEWBERG: In Minnesota, we're on part
13 of the Canadian Shield and the ground does not move that
14 way, let me tell you.

15 Well, to the business at hand, and I'll be
16 brief. Toro is a manufacturer of powered equipment and
17 irrigation systems, and as part of that business, we
18 contract with a supplier to provide us with various
19 lubricants in various containers, including containers
20 covered by the RPPC Act, and that's the reason that we're
21 here today.

22 We consider ourselves to be in the business
23 of outdoor beautification and to be a very environmentally
24 friendly company, and we're proud of our achievements in
25 the area of doing things to foster recycling and things to

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1 improve the environment. We recently initiated a
2 recycling program for drip irrigation tape used for
3 agricultural purposes and received Ventura County's Waste
4 Watch '99 award for that program, a fact of which we're
5 very proud.

6 Relating to the RPPC Act and its
7 regulations, as Caren pointed out, we're extremely
8 satisfied and content with the cooperation that we
9 received from your staff in working towards a compliance
10 agreement, the draft of which we feel meets the needs of
11 the State of California and of the Toro Company.

12 For all practical purposes, we're dealing
13 here with two products, four-cycle oil and two-cycle oil,
14 and they come in containers such as you see on the table
15 in front of you. With the four-cycle oil, we have or
16 anticipate no difficulty in meeting the 25-percent PCR
17 content requirement for the year 2000, and that fact is
18 represented in the agreement which you'll be reviewing a
19 little later today.

20 The two-cycle oil, however, presents a very
21 different issue, and it's the real reason for my being
22 here today. In 1996, Toro, with the California
23 regulations in mind, packaged its two-cycle oil in
24 25-percent PCR containers. Two-cycle oil contains a
25 solvent which allows the gasoline to mix more readily with

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1 the oil, especially in colder temperatures such as might
2 be used for snow-throwing equipment. These solvents can
3 attack plastic resins, and in the case of the 1996
4 bottles, they did so, and we had what's called panelling
5 which results from brittleness of the bottles and we had
6 cracking and leaking of these containers.

7 Obviously that's a serious quality issue
8 for us. The viability of the product line is questioned,
9 our customers are unhappy, and leaking oil is an
10 environmental concern.

11 In 1997, because of this, we went back to
12 virgin material for those two-cycle oil containers. The
13 issue we're dealing with now is how do we effectively deal
14 with the requirements of the regulations in the State of
15 California and give our customers containers that don't
16 leak oil. We've agreed to and have already begun a test
17 program, an accelerated test program, in concert with AR
18 Packaging, and one of their representatives, Bruce
19 Davidson, is here in the audience and will be prepared to
20 answer questions, if you have any, about technical details
21 of the testing or the products.

22 What we're proposing is looking at several
23 different solvent mixes, several different weights of
24 bottles and several different resins, both co-polymer and
25 homo-polymer resins over the next several months. These

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1 tests results we feel quite confident will give us a resin
2 with which we can provide a 25-percent PCR container for
3 two-cycle oil, but we need time to complete that test
4 program. We anticipate being able to have results
5 available mid-year next year, certainly no later than
6 August 31 of the year 2000, and that information, again,
7 is contained in the draft agreement which you'll be
8 looking at a little later today. We would then come back
9 to the Board with the results of our program and our
10 proposed steps to meet the California packaging
11 requirements.

12 There are some issues here. There's a
13 minor cost penalty associated with adding material to the
14 bottles which we feel we may have to do to meet the
15 durability requirements with a 25-percent PCR bottle.
16 Also, as you can see, the bottles are white in color.
17 It's possible with PCR resins we may have to change the
18 color of the bottle, including our whole color scheme and
19 marketing program, which will require a couple of months
20 to implement.

21 We trust that this Toro test program will
22 be acceptable to the Board, and I, at this point, would
23 entertain any questions that you may have about what we've
24 gone through and what we're proposing.

25 CHAIRMAN EATON: Any questions of

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1 Mr. Newberg? No. Enjoy your flight home.

2 MR. NEWBERG: Thank you. If I can, one
3 thing I might add is while we're undertaking this program,
4 we're suggesting that we continue to use virgin resin for
5 the two-cycle oil containers through the end of the year
6 2000.

7 MS. TRGOVCICH: So the compliance agreement
8 you'll be hearing later today sets a compliance year
9 deadline one year beyond that for any of the other
10 companies for the two-cycle oil containers. So it would
11 be a calendar year 2001 compliance year.

12 CHAIRMAN EATON: Mr. Jones.

13 BOARD MEMBER JONES: Just one question. In
14 '96, and that's what we were doing is '96, in '96 the
15 leaking bottles had 25-percent post-consumer resin in
16 them?

17 MR. NEWBERG: That is correct, sir.

18 BOARD MEMBER JONES: They did.

19 MR. NEWBERG: Yes, they did.

20 BOARD MEMBER JONES: All of your two-cycle
21 oil containers had 25-percent recycled resin in them?

22 MR. NEWBERG: To my knowledge, yes. Is
23 that correct, Bruce?

24 MR. DAVIDSON: That's correct.

25 BOARD MEMBER JONES: So in 1996, the year

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1 we're doing the accounting on, all of your two-cycle oils
2 met the mandate?

3 MR. NEWBERG: That's correct. But our
4 four-cycle oils did not.

5 BOARD MEMBER JONES: Four-cycle didn't but
6 your two-cycle did.

7 MR. NEWBERG: That's correct.

8 BOARD MEMBER JONES: And as a consequence
9 of that, the packaging failed.

10 MR. NEWBERG: Yes.

11 BOARD MEMBER JONES: Okay. Because it's
12 interesting. It's -- if you think about it, your
13 four-cycle didn't, but your two-cycle met the mandate.

14 MR. NEWBERG: Yes.

15 BOARD MEMBER JONES: Okay.

16 CHAIRMAN EATON: All right. Hearing none,
17 we'll just -- thank you very much, Mr. Newberg.

18 MR. NEWBERG: Thank you.

19 CHAIRMAN EATON: We're adjourned for lunch.
20 Be back at 1:45.

21 (Lunch recess taken.)

22 CHAIRMAN EATON: Welcome back, everyone,
23 to the afternoon session of the October 20th Integrated
24 Waste Management Board meeting. Members, before we begin,
25 any ex parte communications that should be reported?

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1 Mr. Pennington.

2 BOARD MEMBER PENNINGTON: I do not have

3 any, Mr. Chairman.

4 CHAIRMAN EATON: Mr. Jones.

5 BOARD MEMBER JONES: Greco.

6 CHAIRMAN EATON: Would that be Jim Greco or

7 Al Greco?

8 BOARD MEMBER JONES: That would be Jim.

9 CHAIRMAN EATON: Jim Greco.

10 Ms. Moulton-Patterson.

11 BOARD MEMBER MOULTON-PATTERSON: I have

12 none.

13 CHAIRMAN EATON: And I have none either.

14 So the only one who has a friend in the whole place is

15 Mr. Jones it seems this afternoon that they talked to.

16 That's great.

17 All right. Moving right into the

18 sequential order, Item Number 31 has been pulled at the

19 request of the staff. So therefore, we'll go right to

20 Item Number 32.

21 Ms. Trgovcich, welcome back.

22 MS. TRGOVCICH: Good afternoon, Member

23 Eaton and other Members. The item --

24 CHAIRMAN EATON: Tough crowd today.

25 MS. TRGOVCICH: Tough crowd. The item

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1 before you this afternoon is consideration of enforcement
2 and other options pertaining to the 1996 Rigid Plastic
3 Packaging Container certification process, and
4 consideration of approval of Rigid Plastic Packaging
5 Container compliance agreements for the compliance year
6 2000 for the following companies: 3M, Pennzoil-Quaker
7 State Company, Dietzgen and the Toro Company.

8 Items Number 4 and Number 5 within the
9 title of the item, Loctite Corporation and Masterchem
10 Industries, we are requesting that this item at its
11 conclusion today be continued on the Board's agenda so
12 that we can bring those compliance agreements forward for
13 Board consideration upon completion.

14 You also will be considering today approval
15 of a public hearing procedure and penalty criteria for the
16 assessment of penalties pertaining to the Rigid Plastic
17 Packaging Container program. So as you can understand
18 from the title, there are several parts within the item.
19 There's three distinct elements within the item, and John
20 Nuffer will be presenting that.

21 I would just like to preface this item by
22 saying that there were several provisions pertaining to
23 the enforcement of this law. That issue keep in the back
24 of your mind as we go through today's presentation.

25 First of all, that this is for calendar

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1 year 1996, and we will shortly be bringing forward to you
2 the enforcement options and other options that you have
3 for calendar year 1997 rate calculation at a future
4 meeting.

5 The second is that the data retention
6 requirement was extended by the Board for one year, and
7 that that one year data extension concludes on December
8 31st of this calendar year. So we are very close to the
9 end of the year in which the manufacturers and container
10 manufacturers will no longer have to retain the records
11 for calendar year 1996.

12 With that, I would like to turn the
13 presentation over to John Nuffer.

14 MR. NUFFER: Thank you, Caren.

15 Good afternoon, Mr. Chairman, Board
16 Members. We're here today, as Caren said, to ask for your
17 consideration of staff recommendations to ensure
18 compliance with the Rigid Plastic Packaging Container law.

19 These recommendations are based on the
20 results of the Board's compliance certification for 1996.
21 This certification was directed by the Board because the
22 1996 overall Rigid Plastic Packaging Container recycling
23 rate was 23.2 percent, less than the 25 percent, which
24 would automatically place every company into compliance
25 with the law.

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1 The purpose of the certification was to
2 determine if and how companies selected randomly complied
3 with the Rigid Plastic Packaging law in 1996, to ensure
4 future compliance with the law, and to increase the amount
5 of post-consumer resin used in rigid plastic containers.
6 Because the Board did not know which companies sold
7 products in rigid plastic containers in 1996, the Board
8 directed the staff mail request and certification forms to
9 at least 250, but no more than 500 companies across
10 America.

11 The California Code of Regulations allows
12 the Board to request compliance certifications annually.
13 The Code also allows the Board to determine which
14 companies get certifications based on random selection,
15 container type, product type, company size, or receipt of
16 information that caused the Board to suspect that a
17 container is not in compliance.

18 Some companies that were in business in
19 1996 are no longer in business today, so that out of the
20 500 that we sent requests to, 460 actually got the
21 certification request. Of these 460, 85 percent
22 responded. That's 39 companies. 71, or 15 percent, did
23 not.

24 We identified these non-responding
25 companies as falling into Category 1. Initially we

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1 estimated that 15 of the 71 non-responding firms appeared
2 to be regulated. Of the 389 that responded, 139 were
3 regulated, 62 of those were exempt. However, because they
4 sold food, cosmetics, drugs, pesticides or other hazardous
5 material, 52 reported that they were in compliance. An
6 additional 17 provided data that was incomplete. These
7 providing incomplete data were put into Category 2. One
8 company incorrectly reported that it was not regulated.
9 This company was put into Category 3. Finally, seven
10 companies reported being out of compliance in 1996; six by
11 submitting the certification forms, and one in phone
12 conversations with staff. These were put into Category 4.

13 At the Board meeting in January of 1999,
14 the Board directed staff to gather more information from
15 Categories 1 and 2, those companies that did not respond
16 initially and those companies that provided incomplete
17 data, and we've done that. We've identified which of
18 these company appear to be exempt, which were not
19 regulated, and which appeared to be regulated but are
20 still unresponsive.

21 At the time of the writing of this agenda
22 item, it appeared that we would be able to resolve the
23 status of all of the companies in Categories 1 and 2 by
24 this meeting. These included the 15 we identified as
25 being unresponsive.

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1 However, since the item was prepared, we've
2 whittled that 15 down to eight companies that still have
3 not responded to staff's request for information. We were
4 recommending that these unresponsive companies be placed
5 on a list for future certification should the Board choose
6 to implement another certification. However, the Board
7 may wish to direct staff to continue to pursue
8 certification of these companies and recommend possible
9 enforcement action. The Board previously directed that
10 the lone company in Category 3 be placed on a list for
11 future certification, and this has been done.

12 With regard to Category 4, the companies
13 that reported being out of compliance, you directed staff
14 to develop compliance agreements for your consideration.
15 We've been doing that and have four agreements for your
16 consideration today. We are currently in the process of
17 negotiating two more and will bring these to you as soon
18 as possible. Those would be for Masterchem and Loctite.

19 In summary, we're asking, as Caren said,
20 for to you consider three issues today. The first is
21 adoption of compliance agreements with the Toro Company,
22 3M, Pennzoil-Quaker State, and Dietzgen Corporation, and
23 we'll discuss those individually in a minute. The second
24 thing we're asking you to do is to consider adoption of
25 the public hearing procedures and penalty criteria which

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1 starts at page 32-6 of Agenda Item 32, and these
2 procedures are necessary if you choose to impose fines or
3 penalties in the future.

4 Number three, we're also asking you to
5 schedule a public hearing for Chemlite Industries.
6 Chemlite told us they used RPPCs in 1996, were not in
7 compliance, and would not comply with the law. I think
8 now the Legal staff would like to give you some guidance
9 about the Board's legal authority to take enforcement
10 action.

11 CHAIRMAN EATON: While we're waiting, was
12 the communication that they would not comply in writing or
13 oral?

14 MR. NUFFER: Oral. We had several phone
15 conversations.

16 MS. BORZELLERI: Good afternoon, Board
17 Members. You never know how far away to be from this
18 thing.

19 In response to a request from
20 Mr. Pennington's office -- excuse me. That would be a
21 legal requirement I should be aware of. Deborah
22 Borzelleri from the Legal Office.

23 At the request of Mr. Pennington's office,
24 we were asked in the Legal Office to put together a brief
25 overview of the Board's authority to enforce the RPPC law,

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1 and I have done that and am making it very brief.

2 We have -- let's see. Starting with
3 Section 42300 through 42345, that is the section in the
4 portion of the Public Resources Code where the RPPC law
5 resides. PRC Section 42322(b), we have this up on the
6 overhead, states that any violator of this chapter may be
7 subject to a civil penalty assessed by the Board of not
8 more than \$50,000 for each violation.

9 This authority is permissive rather than
10 mandatory because it uses the term "may" versus "shall."
11 It provides the Board with prosecutorial discretion to
12 assess penalties or take some action that would be less
13 severe than a penalty.

14 Today, we're bringing forward some
15 compliance agreements. You, in the past, have directed us
16 to do so. Negotiating compliance agreements with
17 violators is clearly within the Board's authority and its
18 discretion under the permissive authority for enforcing
19 the law and the inherent authority of the State to settle
20 cases.

21 So whether to do a compliance agreement
22 instead of a hearing for assessing penalties would be a
23 case-by-case determination by the Board based on the
24 relevant circumstances, and staff has provided information
25 about how these cases have whittled down into compliance

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1 agreements or suggestions for enforcement.

2 It's my understanding that for '96, we
3 offered, for the 1996 certification process, any violator
4 that wished to cooperate with the Board was offered the
5 ability to negotiate a compliance agreement with us.

6 Then as far as -- John already mentioned
7 this, but I wanted to go over it again. I think it wasn't
8 necessarily clear that the Board really does have
9 authority to do the certification process as it is, and we
10 have the statute, Section 42325, that required the Board
11 to adopt implementing regulations including procedures,
12 and it very specifically stated, for manufacturers to
13 certify compliance with the law in the event the
14 all-container rate falls below the 25 percent.

15 Section 17946 of the regulations set forth
16 procedures for the manufacturers' certification. In that
17 section it says product manufacturers and only upon
18 notification by the Board, indicating more discretionary
19 action on your part, are required to certify to the Board
20 that the containers that they use comply with the Rigid
21 Plastic Packaging Container requirements.

22 The section further states the Board may
23 determine which product manufacturers are to submit a
24 certification form by using any one of several methods.
25 One is random selection, which is the one we used for '96;

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1 one is by container type; one is by product type held by
2 the container; one is by company size; and one is receipt
3 of information that causes the Board to suspect a
4 container is not in compliance. So the Board has
5 authority to direct a certification process that narrows
6 down the entire group of product manufacturers that are
7 subject to the law based on the criteria in the
8 regulations.

9 I hope that answers your questions,
10 Mr. Pennington.

11 BOARD MEMBER PENNINGTON: I think it does.
12 I guess my biggest concern was that we're obviously doing
13 some selective enforcement, and I just wanted to make sure
14 that we were on solid ground to do that.

15 MR. BORZELLERI: Well, I'm not sure I
16 understand what you mean by selective enforcement. We
17 aren't going after every company, but staff has narrowed
18 down the groups, and we've really tried to assure that
19 we're treating similarly situated companies in a fair and
20 similar way. So I don't think we're singling anybody out.

21 The one that we are actually recommending a
22 hearing procedure for did not appear to want to cooperate
23 at all, and the others did come forward to try to
24 cooperate. We do have the issue of the nonresponsive
25 companies and the Board is free to take some further

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1 action on those because they haven't answered our request,
2 but -- you know, we are singling some out, but it's based
3 on the way things have gone. I think we're on solid legal
4 ground for the process.

5 BOARD MEMBER PENNINGTON: I understand
6 that. I just want to make sure that --

7 MS. BORZELLERI: Have it on the record.

8 BOARD MEMBER PENNINGTON: Right.

9 MS. BORZELLERI: Thank you.

10 CHAIRMAN EATON: Any questions of
11 Ms. Borzelleri?

12 MR. NUFFER: I will continue. Thank you.

13 First, we'd like you to consider the
14 compliance agreements. The template that staff used to
15 negotiate each of those agreements is the first attachment
16 in your Agenda Item Number 32. This was provided to the
17 Board Members back in August. At this point, I would like
18 to hit some of the highlights of that template so you know
19 what each agreement includes. Each agreement differs a
20 little bit, but all the agreements have the same basic
21 information.

22 First, each of the companies is agreeing to
23 set a very high standard for industry and achieve
24 compliance during the year 2000, whether it be by using 25
25 percent post-consumer resin in their containers or by

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1 lightweighting their containers by 10 percent. With
2 regard to a couple of these companies, this is no easy
3 feat given the size of the company. For example, 3M has
4 206 product packages that they have agreed to redesign
5 over the next several months.

6 Number two, each of the companies is
7 agreeing to take specific steps to implement the changes
8 necessary to achieve compliance, and this might include
9 redesigning packaging or changing container suppliers. In
10 the case of the Toro Company, this also includes testing
11 some of its two-cycle engine oil containers which in the
12 past, as Joe Newberg said this morning, leaked when
13 certain recycled resin was used in them.

14 Third, each of the companies is agreeing to
15 submit two progress reports and a final report to the
16 Board.

17 Fourth, in return, the Board agrees not to
18 assess civil penalties against the companies for past
19 compliance years; in other words, for '96, for '97, '98
20 and '99. And with respect to Toro, because they're
21 testing their two-cycle engine oil containers, the Board
22 would also not assess penalties for the 2000 year for
23 those particular containers that they are testing.

24 And five, if the Board determines that a
25 company fails to demonstrate compliance with the agreement

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1 or the law, the Board may hold a public hearing to
2 consider the imposition of penalties.

3 CHAIRMAN EATON: So do I understand that
4 under staff's recommendation, that we would not be able to
5 impose, if we were to agree with the compliance orders,
6 fines, or penalties, whatever you want to describe them
7 as, for '96, '97, '98, '99. But what if they fail to meet
8 the compliance order? Then are those fines -- is that
9 issue reopened or is it closed forever?

10 MS. TRGOVCICH: There are several sections
11 within the draft compliance agreements that we can get to,
12 and where we make mention of failure to make all
13 reasonable attempts or failure to achieve the items
14 included in the compliance agreement. For example,
15 Section 2.3(b) of the compliance agreement states,
16 "Failure to make all reasonable and feasible efforts to
17 complete the agreed upon task in time allowed." We then
18 subject the entity and its subsidiaries to a Board public
19 hearing and it goes on to mention the fines.

20 There are other sections -- I should have
21 highlighted them in my text -- where it also mentioned
22 that in the event the company fails to perform the
23 activities in the schedule of compliance, that they will
24 be subject to fines.

25 CHAIRMAN EATON: 2.3(b)?

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1 MS. TRGOVCICH: 2.3(b) is one of them,
2 correct.

3 CHAIRMAN EATON: 2.3(b), what I have is
4 failure to make all reasonable and feasible efforts to
5 complete the agreed upon task in the time allowed may
6 subject (inaudible) to a Board hearing or a fine up to
7 \$100,000. That's the correct language?

8 MS. TRGOVCICH: That's the correct
9 language.

10 CHAIRMAN EATON: It doesn't talk in terms
11 of what years.

12 MS. TRGOVCICH: At the time, if the Board
13 were to choose to pursue public hearing, in that regard
14 the Board would have the discretion to impose penalties
15 either for the year 2000 or for prior years. That would
16 be the subject of the public hearing in terms of -- for
17 the number of violations. There is a maximum penalty
18 limit specified in the statute on an annual basis, but
19 that would not preclude from you assessing those fines and
20 penalties on a calendar -- for each calendar year.

21 BOARD MEMBER JONES: Mr. Chairman.

22 CHAIRMAN EATON: Mr. Jones.

23 BOARD MEMBER JONES: Since we're doing
24 1996, should the compliance order state that what they're
25 complying with is the year '96 and we're waiving? Since

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1 we're saying we're not going to penalize you for '96, '97,
2 '98, '99, 2000, there should be another paragraph that
3 says if you don't comply with this compliance order,
4 you're subject to the fines for years '96, '97, '98, '99
5 and 2000 so it's not arbitrary. You know what I mean?

6 You're telling them we're going to do away
7 with it. We're not going to fine you as long as you go
8 into compliance, and what the Chairman has said if they
9 don't comply, do we have an opportunity to go back? I
10 think you need to state that in the compliance order so
11 it's not -- so that we're clear about our intention.

12 MS. TRGOVCICH: There are sections within
13 the compliance order that specify that what we are seeking
14 is compliance for calendar year 1996. We do not specify
15 the calendar years in which the Board could consider the
16 assessment of penalties. That is something that we could
17 add. However, we feel it is certainly implied in here and
18 that the Board would certainly have that discretion at a
19 later date.

20 MS. TOBIAS: I think we should add it.

21 CHAIRMAN EATON: The real reason I'm
22 asking, I'm not dealing specifically with any of the
23 compliance orders before us, but there is a little sort of
24 provision in this law that says you have to keep records
25 for three years, and if you are going to -- whatever term

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1 you want to use -- not impose any kind of fine or penalty
2 for years '97, '98, '99 and you're already in the year
3 2000 and probably 2001, and when you're looking at it, in
4 the year 2002, if I'm a responsible business, I look at it
5 and say I don't have to keep the records. And I think
6 they would be on solid legal ground, quite frankly, if
7 they didn't. I don't know if there's any provision that
8 they have to.

9 I'm not trying to make it harder on the
10 compliance order, but I'm just trying to make sure that
11 some of the problems that have cropped up, that we know
12 are inherent within trying to at least wrestle with this
13 law, I think needs to be kind of looked at.

14 MS. TRGOVCICH: We can certainly modify
15 that 2.3(b), and at the end where it says \$100,000 per
16 violation will be assessed for each calendar year for
17 which this agreement covers. We could certainly include
18 that.

19 CHAIRMAN EATON: Ms. Tobias.

20 MS. TOBIAS: If the agreement doesn't say,
21 I think that should be explicit as to records in the
22 agreement as well.

23 MR. NUFFER: One thing I might add in that
24 regard is that there is an extension provision in the
25 agreement, but it only allows for the Board to grant an

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1 extension to conduct certain paths. It does not allow an
2 extension of the compliance for the year 2000. The
3 company can't say sometime during the year 2000, we're not
4 going to make it. They can't get an extension for that
5 reason. If there is a task or two that they can't
6 complete but they may still be in compliance, extension
7 for a couple tasks, but not for compliance.

8 As I said, each of the compliance
9 agreements differs slightly because each of the companies
10 make different products and has different procedures, but
11 they all assure compliance will be achieved for the year
12 2000. Board technical staff and Board's legal staff, in
13 cooperation with the appropriate corporate staff and legal
14 counsel, developed these agreements.

15 With that, I should say that each of these
16 companies has been very cooperative. They all seem to be
17 leaders in their industry and are committed to achieving
18 full compliance as quickly as possible and to setting a
19 higher standard for industry. They believe they can do
20 better and are taking a proactive approach to achieving
21 compliance for the year 2000 and beyond.

22 And I think on a very personal note, it's
23 been a very positive experience for us as staff because
24 we've dealt with many companies. And the companies we
25 have here before us today have been extremely cooperative

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1 and want to do the right thing. With that, I think I'll
2 say a little bit about each company and then we can talk
3 about the specifics of each agreement.

4 I would like to start with the Toro
5 Company. The Toro Company has sales over \$1 billion
6 annually. The company makes outdoor landscaping equipment
7 such as lawnmowers, irrigation systems and so forth. Its
8 products covered by the RPPC regulations include two-cycle
9 and four-cycle engine oils, and transmission fluids.

10 The Toro Company, as you know, has been
11 very supportive of the Board's efforts to promote
12 grasscycling in California. The company spent over
13 \$500,000 to promote grasscycling through radio, newspaper,
14 and magazine advertisements. Toro has also provided three
15 commercial riding mulching mowers to the State to
16 demonstrate the benefits of grasscycling in high profile
17 areas such as Capitol Park.

18 Toro has expressed an interest in marketing
19 the Board's grasscycling video and continues to promote
20 grasscycling in its sales literature. As Jim Newbert
21 mentioned this morning, they've implemented a new
22 recycling program for agricultural drip tape. As I said
23 earlier -- this is where normally Joe would have been up
24 to speak, but Bruce Davidson is still here from AR
25 Packaging. They supply containers to Toro. If you have

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1 any questions when we get to Toro's compliance agreement,
2 he would be happy to answer any questions.

3 Next, 3M has sales of \$15 billion. They
4 make and sell products for the automotive, chemical,
5 electronics, communications, office, consumer, and a lot
6 of other markets. They have 206 products that are
7 packaged in rigid plastic containers.

8 3M has also been very cooperative. They
9 flew three senior staff out to the Board early in the
10 process to let us know that they were unequivocally
11 committed to complying with the law as soon as possible.
12 They actually said that they believe that the recycling
13 rate would remain above 25 percent, and that's why the
14 corporation felt like it would be in compliance without
15 using post-consumer resin. As soon as they found out that
16 the rate was less than that, they were here and wanted to
17 know how they could get into compliance. It's a major
18 effort for them, and they've already started it.

19 Pennzoil-Quaker State is the third company
20 for which we have a compliance agreement for you today.
21 They have also been very cooperative. We actually sent
22 certification forms to a company called Slick 50, which is
23 a maker of automotive lubricants. Since 1996, since the
24 compliance year, there have been several changes which
25 have complicated the picture.

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1 It turns out that Slick 50 was sold to
2 Quaker State, and then Slick 50 merged with another
3 company called Blue Coral, which is a maker of car care
4 products, and then Pennzoil merged with Quaker State. So
5 in order to be fair and consistent in our process, we told
6 the parent company, Pennzoil-Quaker State, that Slick 50
7 was the only company that we required data from, and they
8 agreed to ensure that the parent company and selected
9 subsidiaries would be in compliance and not just Slick 50.
10 So they've offered more than we've required.

11 Finally, Dietzgen is also a substantial
12 firm and has been very cooperative. It makes toners,
13 developers, and other similar products which were sold in
14 regulated containers.

15 At this point, it's probably best that we
16 take a look at each of the agreements and maybe we can
17 start with Toro, unless you have another choice.

18 CHAIRMAN EATON: First I would just like
19 to -- I have Mr. Rick Best here, if he would like to make
20 any comments in general or deal with specific items. The
21 only other speaker I have is Mr. Davidson, who is going to
22 speak to a particular compliance --

23 BOARD MEMBER JONES: Mr. Chairman.

24 CHAIRMAN EATON: Mr. Jones.

25 BOARD MEMBER JONES: I have a question

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1 before we get into compliance orders because I don't have
2 a problem with compliance orders, but I do have a
3 question.

4 3M competes against other companies. Those
5 companies that 3M competes with, did they go through the
6 RPPC process? It was random, I understand that. These
7 are all corporate leaders, but for 3M to redesign the
8 packaging of 206 items, it would seem to me that the next
9 time we decide to -- when we put the criteria out for next
10 year, we need to look at a whole sector so that 3M, we
11 don't put 3M at a disadvantage to compete against their
12 normal competition because they just happened not to be
13 audited. It just doesn't make any sense to me.

14 Pennzoil-Quaker State, Union 76, Tosco, all
15 of their containers have 25-percent post-consumer. Now
16 Pennzoil-Quaker State will. What about Chevron and what
17 about all these others? Are we giving somebody that
18 two-cent differential that makes the difference between
19 them being successful in the marketplace and not being
20 successful?

21 CHAIRMAN EATON: There is a way, Mr. Jones,
22 to solve that problem. That's basically if the state
23 adopts the policy they won't purchase any of those
24 products that don't comply; and therefore, your two-cent
25 advantage goes away very, very quickly. That truly --

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1 that truly is the issue. I think you're right in the
2 sense that it doesn't make sense, but if you look at it
3 the way that you really want to go after it, that those --
4 we as a state, not necessarily the Board should only be
5 buying products that comply with the particular laws and
6 regulations. That's just one way.

7 There is a sensitivity to the economic
8 competition, no question about that.

9 MS. TRGOVCICH: With respect to 3M's
10 competitors, some of them were on the list of the 500
11 randomly selected product manufacturers. Some of them
12 were not. But according to the law, each and every one of
13 them must be in compliance with the 25-percent PCR or
14 10-percent lightweighted, whichever of the compliance
15 options they chose, whether or not they were subject to
16 the certification process. And I know that may still let
17 some people skate because they may not have been in
18 compliance and they did not receive the certification, but
19 that's something that you will potentially be able to
20 address in terms of future year compliance rates.

21 BOARD MEMBER JONES: On this year's
22 compliance rate, those 71 that did not respond, they're in
23 a Category 2. I mean, this goes -- you know, there are
24 six companies that said we know we screwed up. We're
25 here. This is -- I mean there's some garbage guy sitting

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1 out in the audience, Art's one of them, that it always
2 killed me that when you operated a facility the right way
3 and you made a mistake one day, you got a violation. But
4 the guys that operated out of compliance every day,
5 because they could put up a hassle or didn't care, they
6 don't get shoved down.

7 And it's -- it is aggravating at best to
8 see somebody that did not comply, didn't fill out the
9 paperwork, and we're not going after them aggressively,
10 because I'm more concerned about the 71 that did not
11 respond and the 17 that said their data was incomplete
12 because that's compliance because nobody wants to go out
13 and beat them over the head. And the six that said we're
14 good corporate citizens, we understand that, we're going
15 to get into compliance, we're doing compliance orders on
16 them, which I think we need to. I don't have a problem
17 with that, but I think the effort has to be turned up in
18 magnitudes of 10 after these 71 and 17.

19 MS. TRGOVCICH: We need more space.

20 BOARD MEMBER JONES: I don't care how much
21 space you need. I don't care if you want me to do it on
22 the two or three days a week I'm not doing other things.

23 MS. TRGOVCICH: One of the things --

24 BOARD MEMBER JONES: It's not fair.

25 MS. TRGOVCICH: One of the things that John

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1 said with respect to the 17, we figure that around 15 of
2 those 71 were actually regulated when we went back and did
3 a thorough search of the products that they carried. Of
4 those 15, we were able to resolve it and reconcile them
5 down to the eight remaining, and that's the group that
6 John gave at the outset that we had wanted to clear up
7 before this meeting, but because of a lack of
8 responsiveness we're not able to, and you may wish to
9 direct us to pursue enforcement action, to pursue the
10 penalties.

11 BOARD MEMBER JONES: That's out of the 71
12 or out of the 17?

13 MR. NUFFER: Out of the 71 and 17. We
14 haven't stopped --

15 BOARD MEMBER JONES: Combined out of the 71
16 and 17, there are 20, so --

17 MR. NUFFER: It's more like eight now.

18 BOARD MEMBER JONES: Eight that don't
19 belong or do?

20 MR. NUFFER: That have been unresponsive.

21 BOARD MEMBER JONES: Eight out of
22 those.

23 MR. NUFFER: Right. We've determined that
24 the others were exempt or weren't regulated or didn't sell
25 in California in 1996 (inaudible).

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1 BOARD MEMBER JONES: Okay. So we've got
2 one hearing set up for whatever this company is.

3 MR. NUFFER: Chemlite.

4 BOARD MEMBER JONES: Chemlite. Is it
5 within our purview to bring these other eight or nine that
6 decided to blow us off to the same hearing?

7 MS. TRGOVCICH: Correct. That is something
8 (inaudible) an action you may wish to take today.

9 MR. NUFFER: Just to add one point, we've
10 been working with every one -- we didn't drop those 71 and
11 17. We've kept contacting those companies. For example,
12 GE was one of those companies that did not respond to us,
13 and now they are providing us data and have given us a lot
14 of data. So we didn't drop anybody. It's just taking
15 longer to get those unresponsive.

16 BOARD MEMBER JONES: I didn't mean to say
17 that you didn't, it's just a great tactic for not playing
18 by the same rules that everybody plays by.

19 MR. NUFFER: And we understand that.

20 MS. TRGOVCICH: I would like to get to
21 Chairman Eaton's point. On next week's agenda, you will
22 be hearing some items on the plastic trash bag minimum
23 content program, and that is the one law that does have a
24 provision that precludes violators from being able to
25 compete for state contracts, so you will have that

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1 opportunity next week.

2 CHAIRMAN EATON: Can we try and go through
3 the differences --

4 MR. NUFFER: Sure.

5 CHAIRMAN EATON: -- or whatever and try and
6 move through?

7 MR. NUFFER: If I leave something out, I
8 would like Deborah to fill in. If we start with the Toro
9 Company's agreement, the first difference is in one
10 section, 1.1. It has to do with the two-cycle engine oil.
11 It says that the Board, "Further agrees that it will not
12 assess administrative civil penalties against the Toro
13 Company for two-cycle engine oil for the compliance years
14 '96, '97, '98 and '99," which is like everybody else, and
15 then it says, "Or the year 2000," because that's the year
16 that Toro will be testing those containers. So they won't
17 know whether they can comply with those containers until
18 after the testing is complete. They've agreed in that
19 paragraph to undertake an accelerated test protocol
20 involving several PCR resins for tolerance of long-term
21 exposure to solvents, which Joe talked about.

22 Then under the schedule for compliance in
23 Section 3.1, under A, the first sentence, "Develop a
24 program to ensure its RPPCs for all regulated products
25 other than two-cycle oil." In the other agreements,

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1 there's no mention of two-cycle oil. We just say develop
2 a program to ensure that all regulated products in
3 aggregate will meet the requirements of the law.

4 And they also agree in that 3.1.A to set
5 specifications for those containers by January 1 of 2000.
6 We're really talking about their four-cycle engine oil.
7 Those did not have post-consumer resin. They've agreed
8 that on January 1 of 2000, that when they buy containers,
9 those four-cycle engine oil containers, they will have
10 25-percent post-consumer resin in them.

11 3.1.B, they've agreed to mark containers
12 that have not been source reduced or manufactured with at
13 least 25-percent post-consumer resin with a "not for sale
14 in California" label if they can't either lightweight or
15 use post-consumer resin. They just won't sell the
16 products in California. And that was their suggestion.

17 3.1.C is the test protocol. They agree to
18 complete the test protocol no later than August 31st of
19 next year, 2000, and depending on the results of the
20 testing, Toro will do one of the following: They will
21 either begin using RPPCs for the two-cycle oil and be in
22 compliance by the year 2001; or they will cease offering
23 the two-cycle oil in California beginning January 1 of
24 2001; or they will implement another solution deemed
25 acceptable to the Board at that time.

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1 And their reports will be submitted in
2 3.1.D, December 1st of 1999. The others, I think, are to
3 be submitted December 31st of this year and also June 1st
4 of 2000.

5 I think those are the primary differences.

6 CHAIRMAN EATON: Any questions in that
7 regard?

8 MR. NUFFER: The second one is 3M,
9 Minnesota Mining and Manufacturing Company, 3M.

10 Again, in the first paragraph, the
11 introduction section, 1.1, that's pretty much the same.
12 I'm sorry.

13 Let's go to Section 2.2. Those are very
14 specific about their entire compliance program. It says
15 in specific, "3M will be implementing an extensive program
16 of packaging redesign," and as I said, they're going to be
17 dealing with 206 product packages that will need to be
18 redesigned over the next several months.

19 It explains that the procedure they're
20 going to go through to redesign those packages. The first
21 is testing; the second is securing redesigned containers
22 from existing or new suppliers; and changing production
23 methods as necessary to accommodate the redesigned product
24 packaging. They're going to also prioritize their
25 redesign efforts so the packaging they're dealing with is

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1 for the products that sell the most. So they want to get
2 the biggest bang for the buck as quickly as possible.

3 Under the schedule for compliance, 3.1.D,
4 they would like to use corporate averaging, either with
5 lightweighting or using post-consumer resin. That's how
6 they intend to comply.

7 BOARD MEMBER JONES: Question.

8 CHAIRMAN EATON: Mr. Jones.

9 BOARD MEMBER JONES: Corporate averaging on
10 a nationwide basis and extrapolating it down to
11 California, or what? Didn't we have this issue on trash
12 bags?

13 MS. TRGOVCICH: This will be corporate
14 averaging based upon sales in California.

15 BOARD MEMBER JONES: In California. Okay.
16 All right. Fine.

17 MR. NUFFER: And that's in that section.
18 That's the only other difference.

19 Questions?

20 CHAIRMAN EATON: Questions of Mr. Nuffer?
21 All right. Next one is Pennzoil.

22 MR. NUFFER: Yeah. Section 3.1 again, that
23 schedule for compliance, this is a little bit different.
24 "A" says they'll develop a program to ensure its
25 containers in the aggregate meet the requirements of the

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1 law no later than July 1st through December 31st of the
2 year 2000. In the other agreement, it's says "for the
3 year 2000." Because of their particular situation, they
4 wanted to be able to say that they could come into
5 compliance during that six-month period at the end of
6 2000.

7 MS. TRGOVCICH: In this case, we're looking
8 at a much larger corporate structure. We're looking at
9 all the subsidiaries being folded into this master
10 agreement. It's a much larger task for them to undertake.

11 MR. NUFFER: And they're doing that
12 voluntarily. As I said, Slick 50 was the only company
13 that was required to certify. They're certifying most of
14 their other subsidiaries.

15 That's the primary change or difference
16 between the other agreements.

17 CHAIRMAN EATON: With regard to these
18 compliance orders, my understanding is we have to do a
19 resolution on each; is that correct?

20 MS. TRGOVCICH: There is a resolution for
21 each compliance order.

22 CHAIRMAN EATON: Before we get to that, can
23 we hear from Mr. Best first and Mr. Davidson, if he has
24 anything to add, before we get into the other categories
25 which deal with some of the issues raised by Mr. Jones?

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1 How is the leg?

2 MR. BEST: The leg is doing much better.

3 It's functional, bending, all that. Thank you for asking.

4 I'm sorry to hear my good friend Mr. Jones has leg

5 difficulties on his own, but persevere you will.

6 BOARD MEMBER JONES: Absolutely.

7 MR. BEST: Rick Best, Californians Against

8 Waste. Appreciate the opportunity to speak here today and

9 I guess I want to first indicate that I sent a letter to

10 Mr. Eaton. I haven't distributed it to the rest of the

11 Board Members because since that time I have had an

12 opportunity to discuss this with staff and I want to

13 modify some of the statements that I made.

14 I guess I want to begin with by raising

15 just the simple issue we were frustrated by the fact that

16 this item wasn't included on the Waste Board's web site.

17 We did finally talk to Waste Board staff and got the item

18 from them, but it is very difficult to comment on the

19 specific agreements because we didn't see those agreements

20 until today. So I hope that in the future that these

21 agreements, to the extent they can, will be made available

22 to the public ahead of time. It makes it a lot easier for

23 us to be able to comment on these issues.

24 We have issues with each of the -- let me

25 go through the three different categories and address

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1 them. Most of our concerns relate to Category 4, but I
2 want to briefly touch on Category 1 and Category 2 with
3 regards to the auto process -- I think they're Category 1
4 -- the auto process for those that are non-respondents. I
5 certainly agree with Mr. Jones's comment, that I think it
6 does create an unfair situation if the Board were to go
7 and pursue compliance agreements for the seven companies
8 that took the effort and actually responded to the Board
9 and not pursue further action with any of the companies
10 that hadn't responded. So I think that really needs to be
11 something that the Board continues to address by following
12 up with those companies and those that ultimately don't
13 respond, take action against those companies. It was a
14 little unclear -- and that's on Category 1.

15 On Category 2, that the Board had indicated
16 it was going to pursue an informal information gathering
17 process for those companies, but that the staff had
18 recommended that that would be (inaudible). It wasn't
19 clear what information had been obtained, so I would
20 certainly like -- I would like to understand the reasoning
21 why that information process wasn't to be pursued.

22 I want to focus my comments on Category 4
23 with regards to the companies that are out of compliance,
24 and let me just first touch on I think the process that
25 has been proposed in terms of the process for pursuing an

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1 enforcement process, I think that's appropriate, and I
2 think certainly the one company that's been highlighted
3 that has thus far failed to respond and indicated they're
4 not interested in responding, I think it's appropriate the
5 Board pursue those.

6 But we are concerned about the agreements
7 that have been proposed for the other four companies that
8 are before the Board today. I guess I want to preface --
9 my comments aren't specific to saying that the Board
10 shouldn't pursue an enforcement agreement. We went
11 through that issue and expressed our concerns about that.

12 I guess I want to focus my attention on
13 what the enforcement agreement would be and what is the
14 Board getting out of that, because I think that's the key
15 thing. We know these are companies that had failed to
16 comply with the law, and I think the benefit or the role
17 of an enforcement agreement can be that foregoing the
18 enforcement of law for 1996, '97, '98, '99 is somehow
19 getting something from these companies that is a high
20 level of commitment in terms of complying with the law in
21 the future. And I think there's a benefit in doing that,
22 and I think the Board needs to ensure that these
23 enforcement agreements are indeed achieving that.

24 As I read the enforcement agreements, the
25 enforcement agreements indicate that as part of this, the

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1 Board is requiring that they achieve full compliance with
2 the law in the year 2000, but it's not clear from our
3 reading of it what that specifically means. Does it mean
4 that they simply have to meet the criteria that are laid
5 out in the law, or does their specific packaging have to
6 achieve the recycled content or source reduction
7 requirements? That is specifically stated in the
8 agreement for 3M, but for the other companies it has
9 general language that says -- I could read the language,
10 if you would like. You know, if -- take for example the
11 Pennzoil-Quaker State. It says that the entity will
12 develop a program to ensure its RPPCs -- I'm looking at
13 3.1.A under the Pennzoil agreement -- that the entity will
14 develop a program to ensure its RPPCs in the aggregate
15 meet the requirements of the RPPC law. What does that
16 mean? Does that mean all of the options are available to
17 that company, including the overall recycling rate option
18 that is of -- that industry wide recycling or are we
19 talking specifically about the recycling content and
20 source reduction requirements? So I think there needs to
21 be clarification as to what is specifically being required
22 of the companies.

23 I think there's some language in there that
24 suggests we're talking about individual compliance, but I
25 don't see it specifically stated in these agreements. So

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1 I would like some clarification, in these agreements if
2 possible, or on the record that it is, in fact, being
3 required of these companies, that they have to comply with
4 either the recycled content source reduction or
5 refillable components for their individual packaging.

6 So that's really the first issue.

7 CHAIRMAN EATON: So you have no problem
8 then having them, if they were to be in this mode, to
9 avail themselves of the approved methods?

10 MR. BEST: I don't have a problem with them
11 availing themselves of approved methods the Board --

12 CHAIRMAN EATON: You want specificity.

13 MR. BEST: I want specificity. That's, I
14 think, one issue. I think the related issue, though, is
15 the Board needs to think about what it is getting out of
16 this agreement. The Board, in doing so, is getting an
17 agreement that the company is going to comply in the year
18 2000. Well, they're already supposed to comply with the
19 law for 2000. The Board is foregoing enforcement for
20 1996, 1997, 1998, 1999.

21 I think the Board ought to be expecting
22 perhaps a higher level of compliance by these companies,
23 and maybe this first round that isn't something that's
24 possible, but I think it's something the Board ought to be
25 looking at, is perhaps these companies ought to be meeting

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1 a higher level of recycled content, perhaps they ought to
2 be committing themselves to using recycled content or
3 these other options for a longer period of time than
4 simply the one year, year 2000. I think the Board, in
5 foregoing this enforcement, ought to be getting something
6 out of it in terms of a higher level of commitment by
7 these companies to comply with the law.

8 The second issue has to do with -- I
9 haven't heard in any detail as to what level these
10 companies weren't in compliance in 1996. I think a couple
11 of these companies, Pennzoil in particular, there was
12 explanation that these companies had used recycled
13 contents. I think in the Pennzoil case it certainly has,
14 but in the others, I didn't see an indication as to what
15 level these companies had complied. I think if this was a
16 situation where they had made good faith effort but
17 because of whatever circumstances they couldn't do it,
18 didn't fully meet the requirements of the law, that's a
19 consideration. But if these are companies which didn't do
20 anything, had ignored the law, I think the Board ought to
21 take a stronger stand in terms of whether or not they want
22 to consider a compliance agreement. So I think having at
23 least some clarification as to what these companies have
24 done is an appropriate thing for the Board to consider.

25 The third issue is in regards to what

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1 extent -- if these companies fail to meet the tasks that
2 are outlined in the agreement, what extent they are
3 subject to penalties, and this was raised in the
4 discussion earlier today. I think if they're out of
5 compliance for 1996 and it turns out they're out of
6 compliance in 1997 and 1998, meaning they haven't met the
7 requirements that are within the law, these companies
8 ought to be potentially subject to the penalties if they
9 fail to meet the tasks that are outlined.

10 If you read the language that is in any of
11 these agreements, if you look at 2.3(a) and (b), 2.3(a) is
12 where they talk about that they're being -- the Board is
13 basically relieving them of any penalties for '96, '97,
14 '98, '99. 2.3(b) says if they fail to meet it, they'll be
15 subject to fines. Make sure that it's clear that the
16 Board is able to penalize the jurisdictions for all of the
17 years that they're out of compliance, not just 1996. That
18 would be the third point that I make.

19 The last point that I want to raise is that
20 I think the Board needs to ensure that in adopting any of
21 these agreements, that this is not setting a precedent for
22 any future action and that the Board is free in any future
23 years to adopt a different strategy with regards to
24 enforcement. Because I certainly wouldn't want to see a
25 situation where a company goes through this process, for

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1 four years they're exempt, and they're required to comply
2 in the year 2000; and then in 2001, once again, they
3 stopped using recycled content. Does that mean they get
4 another four years under this process? You create a
5 situation where companies can avoid compliance with the
6 law by simply going through this process.

7 So I think the Board needs to recognize
8 that these are some companies that have come forward, the
9 Board is looking at trying to help these companies, but
10 this should not set a precedent in the future for
11 enforcement of this law.

12 So those are concerns. The Board really
13 needs to understand that the Board is giving up a lot in
14 terms of -- by giving an assurance to these companies that
15 they won't take enforcement action, and I want the Board
16 to feel like they're being assured they really are getting
17 a strong commitment from these companies in entering into
18 these agreements.

19 CHAIRMAN EATON: Any questions of Mr. Best?
20 Perhaps we could maybe, if you could stay for a second,
21 Mr. Best, maybe a response from staff. I think there are
22 three or four items -- the specificity item, the level of
23 competency of 1996, what I call the "all bets are off"
24 provision that you have stated, and then of course the
25 precedential value, if any, of these.

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1 Ms. Trgovcich or Mr. Nuffer.

2 MS. TRGOVCICH: Just to respond briefly,
3 in terms of -- we did not include the specific percentages
4 that these companies reported since the law specifies a
5 threshold level with respect to the recycling rate that
6 then triggers the compliance rates and there are specific
7 percentages in the law. They submitted certifications.
8 They either met those percentages or they did not.

9 What I can tell you and what I will tell
10 you is that all of them except one incorporated
11 post-consumer resin to some extent. The one that did not
12 and the folks that were out here before anyone else was
13 3M. Everyone else incorporated post-consumer resin to
14 some extent. I hope that satisfies in terms of not
15 providing specific percentages, but in terms of who made a
16 good faith effort in that regard.

17 In terms of the product-specific reference,
18 pretty much all of the agreements, and I'll just read you
19 some general language, specify in the schedule for
20 compliance what the product manufacturers need to achieve,
21 and it references specifically the 25 percent
22 post-consumer content or be lightweighted by at least 10
23 percent for the calendar year 2000 and beyond. I would
24 like to point out that all of these agreements contain the
25 verbage "and beyond." So it's not compliance for a single

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1 year, it's compliance into the future.

2 And all of the agreements, as well, and
3 it's either in 3.1(d) or (e), reference that the final
4 report is to be submitted whether or not the all-container
5 recycling rate is 25 percent or more for calendar year
6 2000, and that language is intended to say that the
7 all-container recycling rate is irrelevant. This
8 agreement binds you to compliance. We will take another
9 look at the Pennzoil agreement that Rick referenced to
10 make sure that that product-specific information is in
11 there. The report information is certainly in there. We
12 will make sure that the 25 percent and 10 percent
13 limitations are specified so that it goes specific to the
14 product.

15 In terms of "all bets are off," I think
16 that we indicated earlier that we would add the calendar
17 years in there under that 2.3(b) so that the \$100,000 per
18 violation can be assessed for all of the calendar years
19 from 1996 to the year 2000 in that regard.

20 In terms of the precedential nature of your
21 action here today, it is my understanding, and as we've
22 stated all throughout these proceedings, that the Board
23 has prosecutorial discretion in terms of how you choose to
24 proceed, both within the certification process itself, as
25 well as within the enforcement or compliance agreement

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1 process or some other process that you would direct us to
2 undertake. So I do not believe that this binds the Board
3 in any fashion for future years.

4 CHAIRMAN EATON: Any questions?

5 BOARD MEMBER JONES: Mr. Chairman.

6 CHAIRMAN EATON: Mr. Jones.

7 BOARD MEMBER JONES: I'm going to make a
8 motion, but first so I don't mess up these motions, it's
9 my understanding now that the provisions that you just
10 talked about are going to be included in each one of these
11 compliance orders so I don't have to state them in
12 addition to on these resolutions.

13 MS. TRGOVCICH: We will include those. I
14 have those four items here.

15 BOARD MEMBER JONES: And they'll be
16 included in the compliance order?

17 MS. TRGOVCICH: Yes.

18 CHAIRMAN EATON: Mr. Best, does that help
19 with any of your concerns? Maybe not all of them, but I'm
20 just trying to --

21 MR. BEST: I think certainly if it's made
22 clear that the requirement that's being made for the year
23 2000 is that they comply with either the source reduction
24 or the recycled content provisions or the refillable, if
25 that's made clear that that's what's being required for

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1 the year 2000, then I think that satisfies our concern in
2 terms of clarity. We think that there ought to be a
3 discussion perhaps in the future about how -- what else
4 could the Board be leveraging in terms of for future
5 agreements for these companies to do, but I think that
6 addresses that specific issue.

7 And I think on the other key issue is the
8 all bets are off, that making sure that is clear that the
9 Board can address the penalties for all those four years,
10 that would be appropriate.

11 BOARD MEMBER JONES: I think one thing that
12 you're not saying but that's clear through this is, is
13 that if miraculously we hit a 25.2-percent diversion rate,
14 that does not stop these compliance orders. They go
15 through, and that's how I understand it. I just wanted to
16 get it on the record.

17 CHAIRMAN EATON: All right. I have
18 Mr. Davidson, if he's still here.

19 MR. DAVIDSON: I am.

20 CHAIRMAN EATON: If you care to comment.
21 You don't have to. No one is compelling you.

22 MR. DAVIDSON: No, I don't care to comment.

23 CHAIRMAN EATON: All right. Mr. Jones.

24 BOARD MEMBER JONES: Mr. Chairman -- and I
25 know we're holding a couple and I've got to find out on

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1 another one later, but I would like to move adoption of
2 Resolution 1999-407, consideration of approval of a rigid
3 plastic packaging container compliance agreement for the
4 compliance year 2000 with 3M.

5 CHAIRMAN EATON: Subject to the --

6 BOARD MEMBER JONES: Right. Understanding
7 that that compliance order contains all the issues that
8 we've instructed staff to put into the compliance order.

9 BOARD MEMBER PENNINGTON: I'll second it.

10 CHAIRMAN EATON: All right.

11 Mr. Jones moves and Mr. Pennington seconds
12 that we adopt Resolution 1999-407 with the appropriate
13 addendum regarding the specificity items as outlined in
14 the discussion.

15 Madam Secretary, since we need to establish
16 a roll call, would you mind calling the roll?

17 BOARD SECRETARY: Board Members Jones.

18 BOARD MEMBER JONES: Aye.

19 BOARD SECRETARY: Moulton-Patterson.

20 BOARD MEMBER MOULTON-PATTERSON: Aye.

21 BOARD SECRETARY: Pennington.

22 BOARD MEMBER PENNINGTON: Aye.

23 BOARD SECRETARY: Roberti.

24 Chairman Eaton.

25 CHAIRMAN EATON: Aye.

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1 BOARD MEMBER JONES: Mr. Chairman.

2 CHAIRMAN EATON: Mr. Jones.

3 BOARD MEMBER JONES: I would like to move
4 adoption of Resolution 1999-408, consideration of approval
5 of a rigid plastic packaging container compliance
6 agreement for compliance year 2000 for Pennzoil-Quaker
7 State Company with all the appropriate additions to the
8 compliance order.

9 BOARD MEMBER PENNINGTON: I'll second it.

10 CHAIRMAN EATON: All right.

11 Mr. Jones moves and Mr. Pennington second
12 that we adopt Resolution 1999-408, with the appropriate
13 addendum identified in the discussion.

14 Without objection, we'll substitute the
15 previous roll call. Hearing no objection, so shall be
16 ordered.

17 Mr. Jones.

18 BOARD MEMBER JONES: Mr. Chairman, I'll
19 move adoption of Resolution 1999-471, consideration of
20 approval of the rigid plastic packaging container
21 compliance agreement for compliance year 2000 with
22 Dietzgen with all of the appropriate additions.

23 BOARD MEMBER PENNINGTON: Second.

24 CHAIRMAN EATON: All right. Mr. Jones
25 moves and Mr. Pennington seconds that we adopt Resolution

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1 1999-471 with all the appropriate addendums.

2 Without objection, we'll substitute the
3 previous roll call. Hearing no objection, so shall be the
4 order.

5 I think you all need to be congratulated.
6 This has been a long time coming.

7 BOARD MEMBER JONES: We still have more.

8 CHAIRMAN EATON: I know we still have a
9 couple more, but I don't want to go into those categories
10 yet. I think it's the beginning. It's not an end,
11 unfortunately, Ms. Trgovcich.

12 I would like you to be able to follow up on
13 some of the comments that not only Mr. Best made, but I
14 know we're going to be having a full discussion with
15 regard to some of the hurdles that we've had to overcome
16 with RPPC, and I would appreciate it if you would include
17 a segment or a section on the compliance orders and what
18 needs to be maybe put in there.

19 I think there's some other outstanding
20 legal issues that may come up as well that we would like
21 have discussion on. For instance, as you look at me in a
22 quandary, I believe just out of fairness that if an
23 individual corporation or entity is subject to the fact
24 that they have to comply, as Mr. Jones said, even if for
25 some reason the overall rate reaches 25 percent or what

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1 have you. By the same token, if there's a change in law
2 that raises the bar, that whether or not the compliance
3 order would remain in effect or would that have to be
4 renegotiated.

5 For instance, Mr. Best sponsoring a bill
6 right now that would move the categories up to 35 percent.
7 The question is if we enter into a legal binding
8 compliance agreement with an entity and that law should be
9 passed and signed into law, what is the effect of the
10 compliance orders? I think that's only fair to know, and
11 I'm sure Ms. Borzelleri is very hot on the trail. It's
12 not something we need to know right now, but go ahead.
13 You get so few chances to shine because we keep you behind
14 the cloud. So go ahead.

15 MS. BORZELLERI: I just wanted to point out
16 that we actually did make a provision in the agreement for
17 that possibility. So we have a specific provision in the
18 agreement.

19 BOARD MEMBER PENNINGTON: 4.2.

20 BOARD MEMBER JONES: 4.2.

21 CHAIRMAN EATON: See? There you go reading
22 that homework again.

23 (Laughter)

24 BOARD MEMBER JONES: Mr. Chairman.

25 CHAIRMAN EATON: Mr. Jones.

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1 BOARD MEMBER JONES: I would like to move
2 adoption of Resolution 1999-475, consideration of approval
3 of the rigid plastic packaging container compliance order
4 for the year 2000 for the Toro Company with all of the
5 applicable addendums.

6 BOARD MEMBER PENNINGTON: Second.

7 CHAIRMAN EATON: All right. Mr. Jones
8 moves and Mr. Pennington seconds that we adopt Resolution
9 1999-475 with all the appropriate addendums.

10 Without objection, substitute the previous
11 roll call. Hearing no objection, so shall be ordered.

12 Next is a couple of categories.

13 MR. HASTINGS: Yes.

14 CHAIRMAN EATON: Mr. Hastings, I don't see
15 a slip. Did I miss it?

16 MR. HASTINGS: No, you didn't. Sorry.
17 I'll fill out a slip then.

18 CHAIRMAN EATON: That's all right. We're
19 not much here on form. Please.

20 MR. HASTINGS: Sorry.

21 Lance Hastings, Grocery Manufacturers of
22 America. I just wanted to make comment as we bring
23 closure finally to the 1996 compliance year. That has
24 been a --

25 CHAIRMAN EATON: That's not necessarily

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1 true.

2 (Laughter)

3 MR. HASTINGS: The door is closing. That
4 it's been a lengthy process, as you all know, but I think
5 one of the items that we continue to mention is the trade
6 association.

7 This really underscores the need to, I
8 think, reexamine how we look at compliance for this
9 program, and now might be the time in the course of our
10 discussion as interested parties to take a look seriously
11 at prospective compliance so that we don't have to worry
12 about the three years past, looking at records that are
13 that old, and the companies retaining data, and really
14 embark on a meaningful program so that we can avoid
15 situations like Mr. Best referenced about what do you do
16 when you get to the end of that compliance rope. Let's
17 end the rope altogether and start with prospective
18 compliance so that everybody knows what to expect in the
19 coming years rather than recognizing a snapshot in time
20 that happens, in this case, to be 1996.

21 Again, we make that pledge. At all of the
22 meetings we participate, and we made it a couple of times
23 publicly, but I would like to reiterate that challenge to
24 the Board and to industry to really seriously examine
25 prospective compliance for this plastic packaging plan in

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1 California.

2 CHAIRMAN EATON: Thank you. All right.

3 Next couple of items with regard to this, and then we'll
4 take a short break. I have word that the court reporter
5 needs a break. Mr. Jones, I think we have Category 1, 2
6 and 3.

7 BOARD MEMBER JONES: Is that 401?

8 MR. NUFFER: Actually, we need to have you
9 consider public hearing procedures and penalty criteria.

10 BOARD MEMBER JONES: And I was just going
11 to do that with adoption of Resolution 1999-401,
12 consideration of approval of public hearing procedure and
13 penalty criteria for the assessment of penalties
14 pertaining to the rigid plastic packaging container
15 program.

16 BOARD MEMBER PENNINGTON: Second.

17 CHAIRMAN EATON: Mr. Jones moves and
18 Mr. Pennington seconds that we adopt Resolution 1999-401,
19 if I'm not mistaken.

20 Without objection, substitute the previous
21 roll call. Hearing no objection, so shall be ordered.

22 BOARD MEMBER JONES: I have a question of
23 staff.

24 CHAIRMAN EATON: Mr. Jones.

25 BOARD MEMBER JONES: Those folks that I was

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1 talking about that need to come to a hearing, where am I
2 going to slug them in this thing?

3 MS. TRGOVCICH: Debbie and I were just
4 communicating with each other on that.

5 (Laughter)

6 MS. BORZELLERI: We have no problem with
7 that because -- Caren was just asking me if it's noticed
8 appropriately. We're noticed appropriately because we're
9 talking about enforcement options. I think we just need
10 to come up with some language and a resolution to tell us
11 to do that, and it could be part of whatever we want to do
12 with Chemlite, if we want to schedule those for public
13 hearings or maybe we have some issues that we want to add
14 to that. I don't have all of the resolutions in front of
15 me, but --

16 MS. TRGOVCICH: If you look to Resolution
17 1999-406, which is on page -- it's attachment 9 and it is
18 the last page under Item 32. Under the "now, therefore,
19 be it resolved" section, that the Board "will not pursue
20 enforcement against any other companies at this time
21 except Chemlite Industries." We could modify that wording
22 to state that the Board "is directing staff to pursue
23 enforcement against nonresponsive companies in Category 1
24 and Chemlite Industries."

25 BOARD MEMBER JONES: Category 1 are all

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1 these people we talked about, the 71 and the 17 that did
2 not respond.

3 MS. TRGOVCICH: It would be the remaining
4 eight, and if you would like, we can read their names into
5 the record.

6 CHAIRMAN EATON: Let me ask a question. If
7 the Board decides not to pursue 1997, then basically these
8 companies are out.

9 MS. TRGOVCICH: Unless you choose to pursue
10 something today for '96.

11 CHAIRMAN EATON: Well, I'm just saying that
12 there's no assurances that we're going to do anything in
13 '97.

14 BOARD MEMBER JONES: Right.

15 CHAIRMAN EATON: So I'm just wondering what
16 kind of message we're sending just as (inaudible). When
17 are we taking up the '97 items?

18 MS. TRGOVCICH: I think we are proposing
19 that now for the November meeting.

20 CHAIRMAN EATON: Perhaps with regard to
21 Category 1 and 2 we should just wait there because we know
22 that they'll have another opportunity to show their good
23 will. That's all I'm trying to get to.

24 MS. TRGOVCICH: In terms of the Category 1
25 companies that are remaining outstanding, that are

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1 nonresponsive, that we believe are regulated, we have
2 contacted them on numerous occasions. They have been
3 nonresponsive. My concern in not taking action to pursue
4 enforcement today is that we are rapidly moving up against
5 the December 31st data retention deadline which the Board
6 has already extended in the past.

7 CHAIRMAN EATON: Are you saying are we
8 going to pursue enforcement or not?

9 MS. TRGOVCICH: That would be the proposal
10 in modifying the language in the resolution.

11 CHAIRMAN EATON: I misunderstood. I
12 thought --

13 BOARD MEMBER JONES: I want to include
14 them.

15 CHAIRMAN EATON: That's on --

16 BOARD MEMBER JONES: Mr. Chairman.

17 CHAIRMAN EATON: Go ahead.

18 BOARD MEMBER JONES: I would like to move
19 adoption -- and I want to have you read those names in. I
20 would like to move adoption of Resolution 1999-406,
21 consideration of enforcement and other options pertaining
22 to the 1996 rigid plastic packaging container
23 certification process that includes Chemlite, as well as
24 the following.

25 MR. NUFFER: The Bevin Bell Company, Dee

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1 Jewelry Manufacturing Company, Mil Spec Fasteners, MPL
2 Technologies Incorporated, Pep Boys, Quartet, Starlite
3 Paint and Varnish, and Uncle Milton Industries
4 Incorporated.

5 CHAIRMAN EATON: Uncle Milty's (inaudible).

6 BOARD MEMBER JONES: I like Manny, Moe and
7 Shep.

8 (Laughter)

9 BOARD MEMBER PENNINGTON: Second.

10 CHAIRMAN EATON: All right. I'll second
11 the motion.

12 BOARD MEMBER PENNINGTON: I already did.

13 CHAIRMAN EATON: All right. See, that left
14 ear can't hear that.

15 BOARD MEMBER PENNINGTON: Too many people
16 are talking into your left side.

17 (Laughter)

18 CHAIRMAN EATON: Absolutely. Mr. Jones
19 moves and Mr. Pennington seconds that we adopt Resolution
20 1999-406 as amended by striking the word "not" in the
21 "therefore, be it resolved" clause, and in addition
22 substituting the list of names that were read into the
23 record by Mr. Nuffer.

24 BOARD MEMBER JONES: Good catch. I didn't
25 see that.

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1 CHAIRMAN EATON: It's my job.

2 BOARD MEMBER JONES: Good job.

3 CHAIRMAN EATON: Without objection,
4 substitute the previous roll call. Hearing no objection,
5 so shall be ordered.

6 Does that take care of RPPC for today?

7 MR. NUFFER: Yes. Thank you very much.

8 CHAIRMAN EATON: We'll take a short
9 15-minute break and we'll be ready to get Mr. Roberti back
10 here and hopefully finish up very quickly.

11 (Brief recess taken.)

12 CHAIRMAN EATON: All right. Item Number
13 33.

14 BOARD MEMBER ROBERTI: Wait.

15 CHAIRMAN EATON: I'm sorry. We have ex
16 parte communications, if I'm not mistaken.

17 BOARD MEMBER ROBERTI: Yes. Mr. Chairman,
18 during -- while I've been away, I spoke to Mr. J. Michael
19 Huls on the compliance order city he was representing.

20 CHAIRMAN EATON: He represented a number of
21 cities, but it would be fine regarding a number of cities.

22 BOARD MEMBER ROBERTI: The on compliance
23 orders before the Board, and Mr. Joseph Montoya on
24 multi-residential waste disposal.

25 CHAIRMAN EATON: No acronym.

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1 (Laughter)

2 CHAIRMAN EATON: Mr. Pennington.

3 BOARD MEMBER PENNINGTON: Mr. Chairman, I
4 just spoke with George Ely, just a howdy.

5 CHAIRMAN EATON: Mr. Jones, anything?

6 BOARD MEMBER JONES: Said "hi" to four or
7 five folks, talked to the Fire Chief from L.A. about his
8 tire problem, and I think that was it. Said hi to some
9 folks, but didn't discuss business.

10 CHAIRMAN EATON: Ms. Moulton-Patterson.

11 BOARD MEMBER MOULTON-PATTERSON: None.

12 CHAIRMAN EATON: I just had a
13 meet-and-greet with Chuck White, thank you for saving my
14 life as he rounded a corner one day.

15 All right. Item Number 33.

16 MS. TRGOVCICH: Good afternoon, Chairman
17 Eaton and Members. Caren Trgovcich, Deputy Director of
18 the Waste Prevention and Market Development Division.

19 This item is consideration of the recycling
20 market development revolving loan program taking single
21 family residences as collateral. I just would like to
22 remind you that this item is being brought back to the
23 Board at the Board's direction as a result of actions
24 ensuing around the collection of a previously bad loan
25 that the Board pursued for closure on, both with respect

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1 to the commercial property as well as the residential
2 property.

3 I'm going to turn the presentation over to
4 Jim La Tanner.

5 MR. LA TANNER: Okay. Good afternoon,
6 Chairman Eaton and Board Members. I'm Jim La Tanner,
7 Supervisor of the Recycling Market Development Revolving
8 Loan Program.

9 Agenda Item 33 is for the Board to consider
10 whether to change its policy and not take single family
11 residences as collateral on future loans. Presently,
12 single family residences are only taken on the more risky
13 loans where other collateral is not available.

14 Staff's recommendation not to take single
15 family residences on future loans is based on five
16 reasons -- the potential publicity of evicting residents
17 from a single family; the high cost of foreclosures; the
18 high cost of maintaining a residence after foreclosure;
19 to obtain the equity in a single family residence to pay
20 down a defaulted loan we must first demand on the
21 borrower. If that defaults, a second demand on the
22 guarantor. If they do not perform, then we would pursue
23 the foreclosure; and five, there are many legal
24 implications of not having access to the guarantor's other
25 assets under the single action rule if we go after the

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1 single family residence as collateral.

2 If a business loan applicant needs to use
3 the equity in their home to inject money into the
4 business, they have several other options besides the loan
5 program. They can sell the home, eliminate the debt
6 service and use the cash. They can refinance the first
7 mortgage over a 30-year which would provide a lower debt
8 service than our loan. They can update a second mortgage
9 through a normal lender. The Cal Cap program of the
10 Treasurer's Office is for more risky loans than we have,
11 and it's a guarantee program. And also, the state
12 guarantee program, the California (inaudible) and Commerce
13 Agency, is able lend on them through banks that know the
14 underwriting of home mortgages.

15 If the Board adopts this policy and staff
16 subsequently does decline the loan, the applicant may ask
17 for reconsideration under the previous approved appeals
18 process established back in '95.

19 In conclusion, staff recommends adoption of
20 Resolution 1999-394, to not take single family residences
21 as collateral on future loans.

22 MS. TRGOVCICH: Chairman Eaton, I would
23 like to offer as well that this particular item, as it
24 comes forward to you, is a change from existing policy.
25 As Jim indicated, we have several outstanding loans that

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1 have taken single family residences. I have spoken over
2 the last several days with many of the zone administrators
3 for the Recycling Market Development Zones. I think it's
4 safe to say, and the Board heard it several times through
5 workshops over the previous years, that the lending
6 community looks to the Board to provide loans that would
7 be more riskier than that of a commercial lender, and that
8 is an approach that the Board has strived to achieve in
9 the past.

10 I think it's safe to say that all of our
11 ZAs, Zone Administrators, would not want to see a change
12 in the Board policy at this time because it's their job to
13 look at the upfront issues around these loans and to make
14 sure that the Board continues to be an avenue for the more
15 riskier types of ventures that come forward for lending
16 purposes.

17 Our purpose in bringing you this item today
18 revolves primarily around the collection end, the back end
19 of this, if we do take those single family residences as
20 collateral and we are put in the position of needing to
21 collect on the loan, the processes that the Board must
22 then undertake in order to pursue that obligation.

23 CHAIRMAN EATON: Thank you. Any questions
24 of Ms. Trgovcich?

25 BOARD MEMBER JONES: Mr. Chairman.

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1 CHAIRMAN EATON: Mr. Jones.

2 BOARD MEMBER JONES: Go ahead.

3 CHAIRMAN EATON: Mr. Pennington.

4 BOARD MEMBER PENNINGTON: Mr. Chairman, I'd
5 like to know how many loans would we have denied if we
6 weren't taking them.

7 MR. LA TANNER: The present portfolio has
8 54 loans outstanding. There are four loans that are
9 start-up companies that would have been declined if we did
10 not take single family residences. That was the only
11 collateral available. In reviewing those files, there was
12 other income available if they had pursued refinancing the
13 first mortgage or obtaining the second.

14 BOARD MEMBER PENNINGTON: How about -- how
15 many of these 54 look like they could be in trouble and
16 this single family home is at stake?

17 MR. LA TANNER: Three.

18 BOARD MEMBER PENNINGTON: Okay.

19 BOARD MEMBER JONES: Mr. Chairman.

20 CHAIRMAN EATON: Mr. Jones.

21 BOARD MEMBER JONES: You say of the 54 we
22 have. How about all the ones we sold?

23 MR. LA TANNER: We don't have the credit
24 policy on the 17 loans that we sold, single family
25 residence or not. I can tell you that of the 17 loans

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1 sold, all loans are performing as agreed and nobody has
2 ever missed a payment.

3 BOARD MEMBER JONES: I don't agree with the
4 staff recommendation only from the standpoint that this
5 whole program is to give start-ups the opportunity to
6 enjoy the American dream. There's a risk involved with
7 owning your own business, and anybody that's in this
8 audience that has owned their own business knows that the
9 rewards are incredible, but there's a risk. And how many
10 other agencies in the state don't take single family
11 homes? What programs exclude that as part of collateral?

12 MR. LA TANNER: We would be the first one.

13 BOARD MEMBER JONES: So we're promoting
14 entrepreneurs in a recycling market where there is risk,
15 that they may be lucky if they own a home and willing to
16 put it up, and really they're saying, "Give me the chance
17 to either make it or fail and I'll take those
18 consequences," and that's to me the heart of what this
19 program is about. I don't want to see those people not be
20 able to enjoy that dream, and if it means that we've got
21 to go along and take their house, I can live with that
22 too, because that's a consequence of trying to get that
23 dream. And there's plenty of people out here that have
24 put up everything they've owned to start up a business,
25 and it sure as heck makes you work that much harder to

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1 make sure you keep that house over your family's heads,
2 but success has its benefits.

3 So I can't support the resolution. I need
4 it to stay the way it is and give people the opportunity
5 to fail because they can succeed.

6 CHAIRMAN EATON: One question here. We
7 don't define single family residence; do we?

8 MR. LA TANNER: It's not defined. The
9 single family residence is a dwelling occupied by
10 residents. It's not a duplex. It's not an apartment
11 complex. It's a single structure that I pursue.
12 Generally what these are is the owner of the business owns
13 a house and that he lives in it, or it's a rental
14 property.

15 CHAIRMAN EATON: That's my point, if there
16 a distinction between primary residence that's put up for
17 collateral and someone who has saved some money, bought a
18 second home. It's a residential dwelling, single family
19 dwelling, but it's not his or her primary residence. And
20 I don't know if that's a distinction that ought to be
21 thrown in the equation because at that point, that's just
22 like an asset that an individual he or she could put up as
23 collateral if the issue is such. I just raise that issue
24 for definitional purposes, as a way to sort of look at
25 this differently.

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1 BOARD MEMBER ROBERTI: How is our
2 resolution worded?

3 CHAIRMAN EATON: I think it's silent,
4 Senator, if I'm not mistaken.

5 BOARD MEMBER ROBERTI: I think we should --
6 I agree. I think we should amend it so that it only
7 applies to primary residence.

8 CHAIRMAN EATON: And the other issue is --
9 not to avoid the issue, but on a case-by-case basis, as we
10 do with other forms of collateral on these loans, look at
11 them and ask if staff will give us in our packets whether
12 or not it's secured by a single family dwelling, whether
13 that's a primary residence. Those are other factors that
14 could be considered as well.

15 So I'm not sure that that option is looked
16 at as well. It kind of splits the baby, but it provides
17 at least an alternative for us to be informed. That is
18 another option as well. It doesn't go as far as
19 Mr. Jones' opposition, but at the same time provides us
20 with a further glimpse into the assets and maybe even the
21 collateralization of the loan as a whole.

22 MS. TOBIAS: Mr. Chairman, I'm not quite
23 clear what your suggestion was.

24 CHAIRMAN EATON: Well, If I sat up and did
25 nothing, you probably were pretty correct there.

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1 (Laughter)

2 CHAIRMAN EATON: Do you -- it was basically
3 saying leave the policy in place right now as option
4 number three here, but give direction to the staff that if
5 any future loans to be brought forward, that they would
6 make a point to highlight, as we do, whether or not the
7 loan was secured by a single family residence, and
8 therefore, whether or not that single family residence was
9 a primary residence of the person who is receiving the
10 loan and/or whether it was just a rental property and just
11 kind of see it on a case-by-case basis.

12 It seems like out of 52, 13 -- if my math
13 is right -- that's about 12 or that's about 20 percent.
14 Right? Something like that, 17 percent. The question is
15 these are a difficult situation.

16 On the other hand, one of the reasons for
17 bringing this before the Board is because there's been
18 depressed real estate values. That, however, has changed.
19 Specifically, Ms. Moulton-Patterson's area of Orange
20 County, we might actually be able to do some cost
21 recovery.

22 (Laughter)

23 BOARD MEMBER MOULTON-PATTERSON: Not mine.

24 CHAIRMAN EATON: But hopefully that answers
25 your question. That's a long-winded we're really going to

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1 do nothing, here but just kind of look at them on a
2 case-by-case basis, and that's a third option that I was
3 just putting out there.

4 BOARD MEMBER JONES: Mr. Chairman.

5 CHAIRMAN EATON: Mr. Jones.

6 BOARD MEMBER JONES: I would also -- I
7 agree with you. I think leaving it alone and looking at
8 it makes a lot of sense. It gives people the opportunity
9 to look at what they want in this program, but I think the
10 other thing to do also for backup on this stuff, is when
11 you have the next RMDZ loan administrator meetings, put an
12 item together and ask them -- I know you said the RMDZ
13 loan managers don't want to see this change, but I think
14 it would be helpful to the Board to know -- they're the
15 ones out there, trying to encourage people to use this
16 program, and if at your next meeting you broached it to
17 them, we'd have -- we'd have more quantified numbers to
18 look at and statements to further clarify this issue.

19 MS. TOBIAS: Mr. Chairman, in response to
20 what Mr. Jones just mentioned, I will say that although I
21 think it's very important to ask the RMDZ administrators
22 what they think of it and how it's working, there is a
23 difference in the fact that we end up being the ones that
24 have to foreclose on these.

25 There is somewhat of a separation of

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1 interest between those that want to be out there drumming
2 up the loans and trying to kind both the borrowers and a
3 way for them to be successful in it, but it does pose
4 certain legal problems when we go to collect on these. I
5 just want to bring that into the balance.

6 BOARD MEMBER ROBERTI: Mr. Chairman.

7 CHAIRMAN EATON: Senator Roberti.

8 BOARD MEMBER ROBERTI: Mr. Chairman, I'm a
9 little bit confused as to what's before us nevertheless.

10 CHAIRMAN EATON: Nothing quite yet.

11 BOARD MEMBER ROBERTI: That doesn't mean I
12 want to speak to the --

13 (Laughter)

14 CHAIRMAN EATON: It's the beauty of a
15 democracy.

16 BOARD MEMBER ROBERTI: I agree with
17 everything Mr. Jones has stated except the conclusion of
18 that position because --

19 BOARD MEMBER JONES: No problem.

20 BOARD MEMBER ROBERTI: Everything he stated
21 is absolutely correct, except I don't view the home as
22 collateral because we're not going to take the house.

23 BOARD MEMBER JONES: Why?

24 MS. TRGOVCICH: I think it's very important
25 to get on the record here that the Board does not have the

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1 ability to determine whether or not it's going to pursue
2 collateral in support of a loan if that loan goes into
3 default. We are precluded from forgiving that debt. We
4 have to apply to the State Controller's Office, and they
5 have very specific provisions around the forgiving of
6 debt, and in all likelihood loans such as this would not
7 be a basis for waving the pursuing of that home.

8 BOARD MEMBER ROBERTI: But don't we try to
9 allow the person to stay in as long as they can before we
10 take --

11 MS. TRGOVCICH: We've received --

12 BOARD MEMBER ROBERTI: -- and maybe the
13 grant from us or all kind of things that are wonderful
14 that in my very liberal sensitivities I think are
15 wonderful, and protecting the world from myself is a
16 reason why I frankly don't think we should put the home up
17 as collateral.

18 MS. TRGOVCICH: In terms of trying to work
19 with the borrower in the particular case that actually
20 sparked this item, we worked with that borrower for four
21 years, and the Board basically gave that individual a
22 period of months in which to get his or her life in order,
23 to be able to move on, but we are still pursuing the
24 collection of that collateral.

25 BOARD MEMBER ROBERTI: What happened to the

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1 elderly case that sort of spawned this debate, renewed

2 this debate? Are they still in their house?

3 MS. TRGOVCICH: Currently, yes.

4 MR. LA TANNER: Yes.

5 BOARD MEMBER ROBERTI: How long have they
6 been in their house since there's been a foreclosure order?

7 MR. LA TANNER: Foreclosure was originally
8 scheduled back in December, and we deferred it a number of
9 times. It's next scheduled to occur January 12th of 2000.

10 BOARD MEMBER ROBERTI: January 12th of
11 2000, and isn't this their only house?

12 MR. LA TANNER: That's correct.

13 BOARD MEMBER ROBERTI: Aren't they in
14 their 60s, and haven't we taken everything else and hasn't
15 the man had a couple of heart attacks?

16 MR. LA TANNER: He's had one heart attack
17 and several bypasses.

18 BOARD MEMBER ROBERTI: And the Board -- how
19 can we -- we may have to, but I think it just creates such
20 an extraneous line of issues for us that I kind of think
21 it's best not to face this. I understand the contracting
22 difficulty that causes for us in implementing the program
23 because the home is generally most people's greatest
24 asset, but foreclosing on a home under these circumstances
25 or similar circumstances just creates a whole extraneous

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1 line of issues that has nothing to do with the RMDZ
2 program.

3 MR. LA TANNER: In the case of that
4 particular loan, he had been declined by the federal SBA,
5 he had been declined by commercial mortgage companies, he
6 had been declined by second mortgage companies and we were
7 the lender of last resort.

8 CHAIRMAN EATON: Even over the Money Store?

9 (Laughter)

10 MR. LA TANNER: I don't think he applied.

11 BOARD MEMBER ROBERTI: At any rate,
12 Mr. Chairman, I would like to have the opportunity we vote
13 not to take the house. If I lose, fine. I'm unclear
14 frankly what's before us.

15 CHAIRMAN EATON: Well, currently there's
16 nothing before us. There is a resolution in the item,
17 Item Number 33, that would do what you hope to do with
18 that.

19 BOARD MEMBER ROBERTI: So if that -- if
20 1999-394 passed, that would do essentially what I'm
21 suggesting.

22 CHAIRMAN EATON: And I would just perhaps
23 ask that in the resolution, we may want to have the staff
24 report back in 12 months, a year from now, to see -- just
25 report back either through the Executive Director or staff

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1 as to what impact, if any, a policy, if it should pass,
2 that that resolution has on our loan program because that
3 is the counterbalancing force that we've had as we have
4 high reserves as it relates to the loan program. It's
5 been one of the things that has really helped, at least in
6 terms of getting loans out the door. That would be the
7 other alternative as we vote. Maybe at a different point
8 in time it may be easier, it may not be.

9 BOARD MEMBER PENNINGTON: Mr. Chairman,
10 could I ask --

11 CHAIRMAN EATON: Mr. Pennington.

12 BOARD MEMBER PENNINGTON: -- staff. If we
13 foreclose on this gentleman and put him out on the street,
14 how much does it cost us to do this and how much are we
15 going to recover?

16 MR. LA TANNER: The home, if we got a
17 current appraisal, would have an appraised value of about
18 \$116,000. The first mortgage is currently \$16,000, so
19 there's about \$100,000 equity. If we do the foreclosure
20 option, we'll get about \$75,000 as recovery.

21 BOARD MEMBER PENNINGTON: How much legal
22 costs are involved in all of this?

23 MS. TOBIAS: It's not a substantial legal
24 cost because it's really a set procedure that you go
25 through on foreclosure, but did you say how much he owes?

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1 What's the loss of the loan?

2 MR. LA TANNER: If we do not collect the
3 equity in the home as a pay-down, we're still going to
4 lose over \$400,000.

5 BOARD MEMBER JONES: American dollars?

6 (Laughter)

7 CHAIRMAN EATON: First off, we can't help
8 this gentleman, wherever and he and his wife live. This
9 is really proposed future policy so we don't find
10 ourselves in that position, is my understanding of what
11 might be before us.

12 BOARD MEMBER PENNINGTON: Does he have any
13 grandchildren we can take?

14 (Laughter)

15 BOARD MEMBER JONES: Mr. Chairman.

16 CHAIRMAN EATON: Mr. Jones.

17 BOARD MEMBER JONES: I know it's -- I don't
18 want to seem cold-blooded. I'm really not, although when
19 I get around the Senator's liberal list -- I'd like to say
20 I'm moderate until I get around you and then I feel like a
21 huge conservative.

22 (Laughter)

23 CHAIRMAN EATON: Ms. Moulton-Patterson,
24 perhaps for the November and December meetings, you just
25 switch places and then we'll move back in January.

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1 BOARD MEMBER JONES: I think for a little
2 history on this item on what RMDZ loans are, we sat in
3 this room about two years ago, and everybody -- that all
4 these RMDZ loan administrators begged this Board not to
5 consider ourselves like a bank. "They said your standards
6 are so high, that's not why you're not getting out any
7 loans. This whole program is to help move market
8 development," and then we're the stewards of the people's
9 money. We're the stewards of our fund, and we're trying
10 to promote recycling business and that's a good thing.
11 But I think we have to have the wherewithal to understand
12 that -- if we had foreclosed on this guy two and a half
13 years ago, when we probably should have, this wouldn't be
14 an issue. It's a consequence for his failure, but he went
15 to every lending establishment around and couldn't find
16 money and we gave him an opportunity to try to succeed.
17 He didn't make it. The end result of that is he put up
18 his house, he loses his house.

19 I mean, if I had a renter that didn't pay
20 his rent, I would guarantee you he would be on the street.
21 That's just life -- or it is my life, anyway.

22 (Laughter)

23 BOARD MEMBER JONES: You know? You give
24 people an opportunity to succeed, but you've got to hold
25 them accountable if they fail. And just showing up don't

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1 get it done.

2 MS. TOBIAS: Mr. Chair, I want to
3 reiterate what Ms. Trgovcich said, too, that even though
4 it's not the agenda item in talking about this past
5 foreclosure action is, as she said, we really don't have a
6 lot of latitude in enforcing and that's the reason that
7 this item is before you. Instead of coming up to you and
8 basically saying we're going to foreclose, and it does
9 include somebody's personal residence, I think that staff
10 has felt is that because we've heard that concern in the
11 past when we have had to do this, that's the reason we're
12 looking for some kind of policy direction or change on
13 that.

14 And if you wish, Ms. Fish could also
15 discuss the requirement to pursue this. We don't have the
16 ability really to say, "Okay, sorry. We won't go after
17 whatever collateral you have put up," and I don't know
18 whether you wish to hear from her or not on that.

19 CHAIRMAN EATON: I think maybe she would
20 rather not hear from us.

21 Ms. Moulton-Patterson.

22 BOARD MEMBER MOULTON-PATTERSON: Thank you,
23 Mr. Chair. I feel really conflicted on this one. In a
24 way I agree to some extent with Mr. Jones, but I also
25 agree with Senator Roberti. I've been willing to put up

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1 my own house almost for a campaign.

2 CHAIRMAN EATON: That is the first law you
3 never do.

4 (Laughter)

5 BOARD MEMBER MOULTON-PATTERSON: But I feel
6 like I'm an adult and I would suffer the consequences.

7 However, I think on the other hand, we're
8 putting our staff in a really bad position here, and I
9 also feel that sometimes there's not just adults involved,
10 there's children. I have a hard time with the primary
11 residence. I think if it comes to a vote, I would have to
12 agree with staff just not to take it in the first place.
13 And there is also the appeal provision; isn't there? So
14 if someone felt that strongly and it was a special case,
15 it could be appealed to this Board.

16 So if it gets on the floor -- in fact, I
17 will move the Resolution 1999-394 at this time.

18 BOARD MEMBER PENNINGTON: Mr. Chairman.

19 BOARD MEMBER MOULTON-PATTERSON: That does
20 not allow a residence to be taken as collateral, if I'm
21 not cutting off anyone speaking. I didn't mean to do
22 that. I just thought we would get a motion on the floor.

23 BOARD MEMBER PENNINGTON: I would like to
24 second it, but I would also like to ask if you would agree
25 to having it say not to take the primary family residence.

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1 BOARD MEMBER MOULTON-PATTERSON: Absolutely.
2 I forgot about that. I think that's a real important
3 point that Chairman Eaton brought up because a lot of
4 people have rental property and more than one home. I
5 would definitely amend it to read primary residence.

6 BOARD MEMBER PENNINGTON: Being on the left
7 of the Chairman, I'll certainly support it.

8 MS. TOBIAS: Mr. Chair, I would like to
9 point out, I think, but also ask staff. I think it should
10 say primary single family residence. I think that's what
11 what they were trying to get to, single family residence.

12 BOARD MEMBER PENNINGTON: Not to take the
13 primary single family residence.

14 MS. TOBIAS: So I think the way I had it
15 in mind was that a primary single family residence. That
16 would change both the title of that resolution and the
17 resolution clause, the second line.

18 CHAIRMAN EATON: Okay. When you said you
19 would agree with it, was that a second, Mr. Pennington?

20 BOARD MEMBER PENNINGTON: Yes.

21 CHAIRMAN EATON: Ms. Moulton-Patterson
22 moves and Mr. Pennington seconds that we adopt Resolution
23 1999-394 with the amendment that the title be changed to
24 taking of the primary single family residence as well as
25 all the clauses that refer to single family residence in

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1 the resolution as amended to state primary single family
2 residences.

3 Madam Secretary, please call the roll.

4 BOARD SECRETARY: Board Members Jones.

5 BOARD MEMBER JONES: No.

6 BOARD SECRETARY: Moulton-Patterson.

7 BOARD MEMBER MOULTON-PATTERSON: Yes.

8 BOARD SECRETARY: Pennington.

9 BOARD MEMBER PENNINGTON: Aye.

10 BOARD SECRETARY: Roberti.

11 BOARD MEMBER ROBERTI: Aye.

12 BOARD SECRETARY: Chairman Eaton.

13 CHAIRMAN EATON: Aye.

14 All right. Number 34, consideration of a
15 new standardized composting permit, Solano County.

16 Ms. Nauman, nice to see you again.

17 MS. NAUMAN: Due to the late hour of the
18 day, I've asked staff --

19 CHAIRMAN EATON: That was by overwhelming
20 request that you be moved from the front of the calendar
21 to the tail of the calendar.

22 MS. NAUMAN: Because when I get up here too
23 early, I stay too long.

24 CHAIRMAN EATON: You bring a lot of friends
25 along.

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1 (Laughter)

2 MS. NAUMAN: For the record, Julie Nauman,
3 Permitting and Enforcement Division. But in the interest
4 of time and knowing your interest in keeping staff
5 presentations concise and to the point, I've asked staff
6 to provide an abbreviated version on the two permit items
7 we have due to the fact there's no controversy.

8 MS. KARL: Good afternoon, Chairman Eaton
9 and Members of the Board. My name is Christy Karl with
10 the Permitting Inspection Branch.

11 This item before you considers a new
12 standardized composting permit for Goodyear Road
13 Composting Facility in Solano County which is owned and
14 operated by Contra Costa Landscaping services. This
15 facility is moving up one tier in the permit process from
16 a registration permit to accommodate 30,000 cubic yards of
17 active compost and to add street sweepings to the types of
18 feedstock accepted.

19 Staff was unable to provide a
20 recommendation to concur or reject when this item went to
21 print due to the outstanding following issues of CEQA
22 compliance, conformance with the non-disposal facility
23 element of the County Integrated Waste Management Plan,
24 and compliance with state minimum standards.

25 Since that time, I have inspected the

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1 facility and found it in compliance with state minimum
2 standards, and it is also in compliance with CEQA.
3 However, staff was not able to determine consistency with
4 the NDFE. The facility is noted in the NDFE but is not
5 accurately described. Staff from the Office of Local
6 Assistance is available to discuss this if you have any
7 further questions.

8 Board staff recommendation is to concur in
9 the proposed new standardized composting permit number
10 48-AA-0088 and this concludes my presentation. The LEA
11 from Solano County is also available to answer any
12 questions you may have.

13 CHAIRMAN EATON: Questions? Okay.

14 BOARD MEMBER JONES: Mr. Chairman.

15 CHAIRMAN EATON: Mr. Jones.

16 BOARD MEMBER JONES: I would like to move
17 adoption of Resolution Number 1999-571, consideration of a
18 new standardized solid waste facility permit for the
19 Goodyear Road Composting Facility in Solano County, with
20 the appropriate findings to indicate that the Board has
21 found the proposed permit to be consistent with CEQA, in
22 conformance with the intent of the Integrated Waste
23 Management Plan and NDFE, meeting all local and state
24 permitting requirements, and consistent with state minimum
25 standards. And therefore, I move we concur in the permit.

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1 BOARD MEMBER PENNINGTON: I'll second.

2 CHAIRMAN EATON: All right. Mr. Jones
3 moves and Mr. Pennington seconds that we adopt Resolution
4 1999-571 with the appropriate findings.

5 Madam Secretary, please call the roll for
6 the permit.

7 BOARD SECRETARY: Board Members Jones.

8 BOARD MEMBER JONES: Aye.

9 BOARD SECRETARY: Moulton-Patterson.

10 BOARD MEMBER MOULTON-PATTERSON: Aye.

11 BOARD SECRETARY: Pennington.

12 BOARD MEMBER PENNINGTON: Aye.

13 BOARD SECRETARY: Roberti.

14 BOARD MEMBER ROBERTI: Aye.

15 BOARD SECRETARY: Chairman Eaton.

16 CHAIRMAN EATON: Aye.

17 Item Number 35. Thank you.

18 MR. GEBRE-HAWARIAT: Good afternoon. My
19 name is Tadese Gebre-Hawariat. I'm with the Permitting
20 and Inspection Branch.

21 Item 35 is the consideration of a new solid
22 waste facility permit for the Tierra Verde Industries, or
23 TVI, Gold Coast Recycling and Composting Facility in
24 Orange County. As I begin my presentation, I would like
25 to report that for most of the day the LEA, Ms. Patricia

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1 Henshaw, was here, but she had to leave because she had to
2 catch a plane back to Orange County to attend a class.
3 But with us is Mr. Art Cadarian (phonetic), the owner and
4 operator of the facility, and they both came here to
5 answer any questions the Board Members may have on the
6 item.

7 The project is to allow an operation of a
8 facility under the terms and conditions of a full solid
9 waste facility permit where green waste materials will be
10 composted, and construction and demolition waste will be
11 processed and recycled at the rate of 1,500 tons per day.

12 Board staff has determined that all the
13 requirements for this proposed permit have been met. And
14 therefore, we recommend that the Board adopt Solid Waste
15 Facility Permit Decision Number 1999-572, concurring with
16 the issuance of Solid Waste Facility Permit Number
17 30-AB-0384.

18 This concludes my presentation.

19 CHAIRMAN EATON: Any questions of staff?

20 BOARD MEMBER PENNINGTON: Mr. Chairman.

21 CHAIRMAN EATON: Mr. Pennington.

22 BOARD MEMBER PENNINGTON: I'll move
23 adoption of Resolution 1999-572, with the appropriate
24 findings to indicate that the Board has found the proposed
25 permit to be consistent with CEQA, in conformance with the

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1 intent of the County Integrated Waste Management Plan,
2 meets all local and state permit requirements, and is
3 consistent with the state minimum standards; and
4 therefore, we concur in the issuance of this permit.

5 BOARD MEMBER JONES: I'll second.

6 BOARD MEMBER MOULTON-PATTERSON: Second.

7 CHAIRMAN EATON: Mr. Pennington moves and
8 Ms. Moulton-Patterson seconds that we adopt Resolution
9 Number 1999-572 with the appropriate findings.

10 Madam Secretary, please call the roll.

11 BOARD SECRETARY: Board Members Jones.

12 BOARD MEMBER JONES: Aye.

13 BOARD SECRETARY: Moulton-Patterson.

14 BOARD MEMBER MOULTON-PATTERSON: Aye.

15 BOARD SECRETARY: Pennington.

16 BOARD MEMBER PENNINGTON: Aye.

17 BOARD SECRETARY: Roberti.

18 BOARD MEMBER ROBERTI: Aye.

19 BOARD SECRETARY: Chairman Eaton.

20 CHAIRMAN EATON: Aye.

21 Thank you. Item Number 36.

22 MS. NAUMAN: Mr. Chairman, this item is
23 consideration of two new sites for the solid waste
24 disposal and codisposal site cleanup program (AB 2136).

25 MR. WALKER: Good afternoon, Chairman Eaton

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1 and Members of the Board. Scott Walker, Permitting and
2 Enforcement Division.

3 This item presents consideration of new
4 sites for remediation pursuant to the AB 2136 program.
5 Two sites are recommended for Board-managed remediation
6 projects. These sites include the Yosemite Slough illegal
7 disposal site in San Francisco, and the Tiajuana River
8 Valley illegal disposal site in San Diego County. Before
9 I proceed with the item, I would like to commend the
10 excellent staff work by Brad Williams on the AB 2136
11 program on these sites.

12 The Yosemite Slough site is located in an
13 industrial and low income area, Hunter's Point in San
14 Francisco, on property owned by the California State Parks
15 Department. Illegal dumping has been an ongoing problem
16 in this area and has resulted in numerous complaints from
17 local businesses and citizens. The site constitutes a
18 confirmed condition of nuisance in violation of state
19 minimum standards. The State Parks Department, Mayor's
20 office, San Francisco Department of Public Works, and San
21 Francisco Solid Waste Local Enforcement Agency have been
22 implementing measures in this area to control and
23 remediate local dumping. This cleanup project would
24 represent a significant step in the completion of the
25 urban renewal of this particular area.

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1 Due to funding problems, the State Parks
2 Department requested in August a Board-managed AB 2136
3 program remediation of the site. The LEA and other
4 agencies have submitted their support for this request.
5 The recommended project would include removal by the
6 Board's contractor of over 300 cubic yards of trash,
7 construction-demolition debris, and contaminated soils for
8 disposal and recycling to the extent practicable.

9 The total estimated cost of this project is
10 \$39,000, of which the State Parks Department has committed
11 to up to \$12,000 or 30 percent to reimburse the Board for
12 the cost of some additional security, site security
13 measures. The Parks Department is also committed to
14 additional in-kind services for project coordination,
15 maintenance of the site, and surveillance.

16 The Tiajuana River Valley illegal disposal
17 site is located near the border with Mexico within an
18 environmentally sensitive area on property owned by the
19 San Diego County Department of Parks and Recreation.

20 In July of 1996, the Parks Department
21 leased the property to Crown Point Enterprises for the
22 operation of a clean green burn and composting facility.
23 The operator violated the terms of the lease agreement,
24 and in November of 1997 the Parks Department filed and
25 obtained an injunction against the operator. The operator

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1 subsequently declared bankruptcy and abandoned the site in
2 October of 1998. There are now over 40 acres of
3 unprocessed mixed waste in violation of numerous state
4 minimum standards, and this is clearly constituting a
5 confirmed condition of pollution and nuisance.

6 In April of 1999, the Parks Department and
7 the City of San Diego Solid Waste Local Enforcement Agency
8 requested the assistance of the AB 2136 program in a
9 Board-managed remediation of this site. The recommended
10 remediation involves two phases. The first phase would
11 involve the processing of this material by the Board's
12 contractor to remove trash and other contamination,
13 grinding of the resulting feedstock into a mulch material,
14 and the placement of the mulch material into stockpiles
15 that satisfy the local fire authority. This particular
16 area is of large concern with regard to the potential fire
17 hazard.

18 The second phase, which is committed to by
19 the Parks Department, would involve incorporation of the
20 mulch at agronomic rates into Parks Department properties
21 primarily as a soil amendment, so the material would be
22 end-used.

23 The total estimated Board cost is \$348,000.
24 The Parks Department's match is estimated at a minimum of
25 \$192,000 or 35 percent. In addition, the Parks Department

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1 has committed to maintain the property and has committed
2 to assist the Board in the pursuit of cost recovery which
3 will be done on this particular site.

4 We additionally have gotten some tentative
5 commitments of some tipping fee waivers for the residual
6 trash that has to be disposed, and the LEA will be here to
7 answer questions.

8 Staff concludes that AB 2136 program
9 criteria are met for Board-managed remediation projects of
10 these sites. Adoption of Resolution 1999-573, approving
11 Board-managed remediation for the Yosemite Slough and
12 Tiajuana River illegal disposal sites.

13 That concludes staff's presentation. In
14 attendance are representatives from the applicants on both
15 these sites.

16 CHAIRMAN EATON: Any questions of staff or
17 the applicants? Okay.

18 Just for clarity purposes, we will be
19 pursuing cost recovery on the second property; correct?
20 If possible.

21 MR. WALKER: Both properties -- cost
22 recovery is required on all sites unless a waiver is
23 granted. We're not requesting a waiver.

24 CHAIRMAN EATON: Okay.

25 BOARD MEMBER PENNINGTON: Mr. Chairman.

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1 CHAIRMAN EATON: Mr. Pennington,
2 Ms. Moulton-Patterson.

3 BOARD MEMBER MOULTON-PATTERSON: If there's
4 no discussion, I would like to go ahead and move
5 recommendation of Resolution Number 1999-573, approving
6 the proposed new sites for the Board-managed AB 2136
7 program remediation projects. I hope I didn't interrupt
8 you, sir.

9 BOARD MEMBER PENNINGTON: No, no. That's
10 fine. I just had one question.

11 CHAIRMAN EATON: So before we have a
12 second, Mr. Pennington, please.

13 BOARD MEMBER PENNINGTON: On the Yosemite
14 Slough site, you said it was urban renewal. Are they
15 going to turn it back into a park?

16 MR. WALKER: My understanding is it will be
17 retained as a park land use, and the Parks Department can
18 answer that further, but that's what they are nodding. It
19 will be retained as a part of the park.

20 BOARD MEMBER PENNINGTON: It's a dump site
21 now, it's not much of a park. Are you going to go back in
22 and dress it up and make it a functioning park?

23 MS. CROSS: Yes, sir. I'm Anna Cross,
24 Division Maintenance Chief of the district. That is our
25 intent.

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1 BOARD MEMBER PENNINGTON: Great. Thank
2 you.
3 CHAIRMAN EATON: I'll second the motion.
4 Ms. Moulton-Patterson moves, Mr. Eaton
5 seconds that we adopt Resolution 1999-573.
6 Madam Secretary, please call the roll.
7 BOARD SECRETARY: Board Members Jones.
8 BOARD MEMBER JONES: Aye.
9 BOARD SECRETARY: Moulton-Patterson.
10 BOARD MEMBER MOULTON-PATTERSON: Aye.
11 BOARD SECRETARY: Pennington.
12 BOARD MEMBER PENNINGTON: Aye.
13 BOARD SECRETARY: Roberti.
14 BOARD MEMBER ROBERTI: Aye.
15 BOARD SECRETARY: Chairman Eaton.
16 CHAIRMAN EATON: Aye.
17 For the record, we had Mr. Richard Repasy
18 and Mr. Bill Prinz also here on these items to speak if
19 necessary.
20 Okay. Item Number 37.
21 BOARD MEMBER JONES: Mr. Chairman.
22 CHAIRMAN EATON: Mr. Jones.
23 BOARD MEMBER JONES: Can I ask a question?
24 CHAIRMAN EATON: Sure.
25 BOARD MEMBER JONES: We've got some folks

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1 here from L.A. on the next item, on the tire remediation.

2 CHAIRMAN EATON: 37?

3 BOARD MEMBER JONES: On 38. It's the -- I
4 don't know if the Fire Chief wants to sit here during the
5 tire regs. This is the only reason I'm asking. It's
6 Oxford or Filbin. It's those two tire sites, White Rock
7 and Import Tires in L.A.

8 MR. FITZGERALD: I think there's an
9 addendum to that on 38 also.

10 BOARD MEMBER JONES: Right. I don't know
11 if you want to, it's -- I was surprised to see it out.

12 CHAIRMAN EATON: Which? I'm sorry.

13 BOARD MEMBER JONES: Tire regs, we've got a
14 room full of people. Do we want to --

15 CHAIRMAN EATON: Mr. Jones wants to be able
16 to allow -- in deference to your relationship and since
17 you've had such a hard day and it's in deference to
18 Senator Roberti, we'll do Item Number 38.

19 BOARD MEMBER JONES: Thank you,
20 Mr. Chairman. It'll get these guys out of here so they
21 don't have to wait.

22 MR. FITZGERALD: Mr. Chairman and Board
23 Members, Byron Fitzgerald, Special Waste Division.

24 Item 38, we have three sites on Item 38 --
25 one Sacramento, one Los Angeles and one halfway between.

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1 So start with that.

2 CHAIRMAN EATON: Got it covered.

3 MS. PAVELKO: Gail Pavelko for Special
4 Waste Division.

5 Today staff is presenting two waste tire
6 sites for remediation and one site for stabilization under
7 the waste tire stabilization and abatement program. The
8 Public Resources Code authorizes the Board to expend money
9 from the California Tire Recycling Management Fund to
10 perform any cleanup, abatement or remedial work required
11 to prevent substantial pollution, nuisance or injury to
12 the public health and safety.

13 At both of the sites for remediation, the
14 property owners have failed to take the appropriate action
15 as ordered by the Board. What I'm going to do is describe
16 both of the sites briefly to you.

17 White Rock Road Waste Tire Site is located
18 in Sacramento County. There are an estimated 80,000 waste
19 tires illegally stockpiled on this private property. The
20 site is approximately 200 acres in size, and back in the
21 '60s, the site operated as a county landfill. Currently,
22 the only activities on-site is the environmental
23 monitoring of the ground water by Aerojet. It appears the
24 tires have been there for a good 20 years. We don't know
25 the source of the tires.

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1 BOARD MEMBER ROBERTI: How many tires?

2 CHAIRMAN EATON: She said about 120,000, I
3 believe was the estimate, if I'm not mistaken.

4 MS. PAVELKO: The estimated amount right
5 now is 80,000. That amount could increase. There could
6 be tires buried and there's also large piles of shreds,
7 and the amount of tires could increase up to 120,000
8 tires.

9 The second site is known as Import Tires
10 and it's in Los Angeles County. There's an estimated
11 50,000 tires illegally stockpiled on private property.
12 The site is approximately two and a half acres in size and
13 was leased to a tenant as a reported tire recycling and
14 storage yard, has no secure perimeter fencing, and is
15 located in a residential area known as Little Rock, and
16 Little Rock is located just south of Palmdale.

17 The site consists of one huge stockpile of
18 tires, and right now the use permit for tire recycling,
19 auto dismantling and trailer park is in the process of
20 being revoked by the County.

21 For the record, staff has received two
22 letters of support, two letters supporting remediation
23 from Senator William Pete Knight and Assemblymember George
24 Runner. Today there are representatives from Los Angeles
25 County who would like to talk to the Board about Import

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1 Tires. The CEQA requirements for both of these sites will
2 be met through a notice filed by Board staff.

3 Now the third site for stabilization, Bob
4 Fujii is going to talk to you about that.

5 MR. FUJII: Good afternoon. My name is Bob
6 Fujii.

7 The third site for consideration today is
8 the Filbin tire site, and more specifically, its
9 implementation of the winterization plan for the upcoming
10 rainy season. Just a little background -- as the rainy
11 season is rapidly approaching, we find there's a critical
12 need to prevent the surface water runoff from contacting
13 the contaminated areas of the site and carrying that
14 contamination off-site, perhaps contaminating surface
15 water in the area of the site itself.

16 In order to address the need, we've
17 developed through a contractor a winterization plan. The
18 winterization plan is basically divided into two phases.
19 In phase one, we propose to eliminate or reduce the
20 surface water runoff to the tire fire area by constructing
21 a series of check dams or berms in the two back canyon
22 areas above the site. The storage volume of the surface
23 water which can be retained behind the berms will be
24 basically on the topography of the area. We will in some
25 cases have a conceptual design, but this will be a little

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1 bit of design in the field as you go with the equipment
2 because we don't have a real clear handle on the
3 topography of all the areas in which we'll be building.
4 We estimate, though, based on the calculations by our
5 contractor there will be anywhere from three to four berms
6 built. The estimated cost for phase one is approximately
7 \$161,000.

8 Phase two will take place after the fire
9 has basically been stabilized or extinguished. The
10 winterization plan being proposed for phase two is the --
11 we want to accomplish about three different things. The
12 first is capture all contaminated runoff and sediment in
13 the area of the fire by constructing a large sedimentation
14 basin. Sediment is a large problem in the area of the
15 fire because basically the fire has stripped off all
16 vegetation, or through the fire suppression efforts all
17 the vegetation and surface has been disturbed, so
18 sedimentation will be an issue for us in that area. And
19 second in response to that is to design an erosion control
20 plan to minimize that sedimentation and erosion control of
21 that area.

22 The final thing is we want to design a
23 conveyance system to carry the non-contaminated water that
24 we would store in the upper -- behind the berms in the
25 phase one portion of the winterization plan. And the

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1 reason for this is in the event that we get a huge storm,
2 we have a way of conveying that water beyond the
3 contaminated area, not contaminating that water, then
4 releasing it off-site, still having adequate capacity to
5 store storm water flows that are going to hit above the
6 site.

7 We've been working with USEPA, and
8 tentatively they have agreed to fund the design and
9 construction of the phase two winterization parts of the
10 plan. Just to clarify for the item, really all we're
11 asking is for the Board to approve funding for the phase
12 one portion of the winterization plan only. The phase two
13 portion will be funded by USEPA at this point.

14 With that, the staff recommends that the
15 Board approve this project as it is essential to provide
16 upstream storm water detection and preventing off-site
17 release of contamination from the site.

18 And that pretty much concludes my
19 presentation.

20 CHAIRMAN EATON: Any questions of staff?

21 BOARD MEMBER PENNINGTON: Mr. Chairman.

22 CHAIRMAN EATON: Mr. Pennington.

23 BOARD MEMBER PENNINGTON: I'll move
24 adoption of Resolution -- I'll move the Board approve the
25 issuance of -- wrong one. Sorry.

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1 I move adoption of Resolution 1999-576 to
2 approve funding from the Tire Recycling Management Fund in
3 the amount of \$120,000 for remediation of the White Rock
4 Road Waste tire site; \$130,000 for remediation of the
5 Import Tire site; and \$161,400 for winterization of the
6 Filbin tire site.

7 BOARD MEMBER JONES: I'll second.

8 CHAIRMAN EATON: Mr. Pennington moves,
9 Mr. Jones seconds that we adopt Resolution 1999-576 as
10 revised regarding the White Rock Road Waste Tire Site, the
11 Import Tires Waste Tire Site, and the Filbin Tire Site
12 winterization.

13 Madam Secretary, would you please call the
14 roll.

15 BOARD SECRETARY: Board Members Jones.

16 BOARD MEMBER JONES: Aye.

17 BOARD SECRETARY: Moulton-Patterson.

18 Pennington.

19 BOARD MEMBER PENNINGTON: Aye.

20 BOARD SECRETARY: Roberti.

21 BOARD MEMBER ROBERTI: Aye.

22 BOARD SECRETARY: Chairman Eaton.

23 CHAIRMAN EATON: Aye.

24 The Fire Chief I know wanted to say a few
25 words.

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1 MR. BELL: Just real quickly. In respect
2 to Member Jones's move there to get us earlier, I want to
3 be as brief as possible.

4 Mr. Chair, Members of the Board, Senator,
5 members of the staff, good afternoon. Thank you very much
6 for passing this. My main concern here is this particular
7 project site is in need of immediate remediation. That to
8 me is the issue here. It's in an area that has a
9 significant amount of residents. I kind of identified
10 there in a few bullets, there's between 8,000 and 117,000
11 residents downwind from this site depending on which way
12 the wind is blowing. Typical of the Antelope Valley, we
13 do have winds in many directions, most significantly at
14 times, it's calm, and when it's calm, this smoke would
15 just go out and sit among the residents if we had a fire.

16 History has shown that arson is very common
17 in tire fires, and U.S. Fire Administration did a study in
18 1993 and it came up with seven warning indicators for
19 future tire pile fires, and this particular site hits all
20 seven of the future indicators.

21 Without going through the details, unless
22 you wish me to, I would just like to stress we need
23 immediate remediation on this site, and I'm ready for any
24 questions.

25 CHAIRMAN EATON: Any questions? Chief, I

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1 would just like to thank you for coming up and staying all
2 day and I wish you could just do us one favor.

3 MR. BELL: Yes, sir.

4 CHAIRMAN EATON: There's a number of
5 legislators in your area who have written to us today. We
6 sure could use their help on some of the bills we have to
7 try to get access to these pieces of property. Next time
8 you see them, I hope you can stress to them how important
9 it is that they support this kind of legislation. In the
10 past, they haven't always been so quick to be supportive
11 of some of the things this Board has done. And I don't
12 mean politics because this is really people's lives, and
13 hopefully you can carry that back to them because those
14 are two members we really need their help on if we're
15 going to get the problem solved.

16 MR. BELL: Thank you, sir, and I'm
17 available for anything I can do to help, myself.

18 BOARD MEMBER JONES: Mr. Chairman.

19 CHAIRMAN EATON: Mr. Jones.

20 BOARD MEMBER JONES: Question of staff.
21 What does the time look like on something like this?

22 MS. PAVELKO: The problem with Import Tires
23 is we have not yet gone to administrative hearing yet. We
24 normally do not remediate a tire site until we have
25 assessed a civil penalty or an administrative fine, and

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1 the administrative fine is usually issued as a result of
2 the hearing. The hearing right now is set for November
3 17th and a decision will probably take another good six
4 weeks to come out after the hearing. If we proceeded with
5 this site as we normally do, remediation would occur after
6 January 1st.

7 BOARD MEMBER JONES: Okay.

8 CHAIRMAN EATON: All right.

9 Back one step back to Item Number 37,
10 consideration of approval to formally notice proposed
11 revisions to the Waste Tire Regulations for 45-day comment
12 period.

13 MR. FITZGERALD: Item Number 37 is somewhat
14 of a rerun. A portion of this was brought to the Board in
15 July, and the Board directed staff to combine what we
16 brought in July and bring the tire storage hauler and
17 monofill regulations together as a single package, and
18 that's what we're doing today.

19 Since July, we've had two workshops, one in
20 northern California, one in southern California. The
21 comments that we got from the workshop, the ones where
22 there was consensus, have been included in the version of
23 the regulations you have before you today. There will be
24 some items I'm certain that the public will want to speak
25 on where there is not necessarily consensus.

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1 Copies of this agenda item are located on
2 the back table. Also on the back table is a copy of some
3 financial assurance regulations that were presented at the
4 workshops but unfortunately did not make it into the
5 agenda item, and staff is wanting to have these as part of
6 the regulation package that you'll go forward with.

7 In addition, staff is proposing to add a
8 manifest log form which got dropped out. Today, staff is
9 seeking approval from the Board to commence the rulemaking
10 process including filing of these proposed regulations
11 with the Office of Administrative Law for a 45-day public
12 comment period.

13 With that introduction, I'll turn it over
14 to Martha Gildart. Senator Roberti, you might be
15 appreciating Ms. Gildart is on jury duty right now. She
16 talked her way out for the afternoon so she could be here.

17 CHAIRMAN EATON: Could you refresh my
18 recollection? Was that the item that we were supposed to
19 have the hearing on that the Senator had requested on the
20 monofill tire regulations prior to bringing them back?

21 MR. FITZGERALD: Not to my knowledge.

22 MS. GILDART: Our understanding was that
23 the Board had asked for the regs to come in September, and
24 we had requested a one-month delay so we could conduct two
25 public workshops. Is that the same issue?

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1 CHAIRMAN EATON: Senator, when we had
2 originally taken it up sometime in the spring, I know you
3 had requested a hearing. I don't know if this sufficed or
4 if it was the two public workshops.

5 BOARD MEMBER ROBERTI: This suffices.

6 CHAIRMAN EATON: Okay. Great. Thank you.

7 MS. GILDART: Martha Gildart. In my
8 presentation, I'm going to just describe some of the more
9 significant changes and the comments that we received from
10 the public. We're not going to go through each and every
11 definition or change in the regulations. However, if
12 there's anything I skip that people wish to question and a
13 Board Member has a comment on, certainly we can do that.

14 The regulations start on page 1 at the end
15 of your agenda item. There are several definitions to
16 start off with. Of those definitions, there are five of
17 significance and they in common deal with defining or
18 clarifying the Board's role over what tire materials come
19 under the Board's permit authority.

20 The five definitions are for "altered waste
21 tires," "bailed tires," "crumb rubber," "tire-derived
22 product," "used tire." Of those, "crumb rubber,"
23 "tire-derived product," and "used tires" would come
24 outside of the Board's permit authority, while the
25 "altered waste tire" and "bailed tires" would be

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1 considered a waste tire, and therefore, under the permit
2 authority. This was an attempt to encourage the recycling
3 of these materials into new products and to not be
4 requiring permits for the use.

5 At the workshops, staff received numerous
6 comments on this collection of definitions. Most of the
7 commenters were wanting the definitions expanded to
8 include more materials to be outside the permit
9 requirements. For example, we received comments
10 requesting that we change the definition of "crumb rubber"
11 from one-quarter-inch size limit to one-inch size limit.
12 We also received comments on the "tire-derived product"
13 asking if the Board would consider that we would allow
14 on-site storage of tire-derived products to be outside of
15 the permit requirement. Staff felt that these comments
16 were beyond our ability to incorporate into the language
17 without direction from the Board.

18 Another change of significance is under the
19 term "collection." This is a new term that we are adding
20 to the regulations. It is an attempt to address the loss
21 of the storage exclusion for enclosed containers. The
22 comments that we received that we were able to respond to
23 were to replace the phrase "containers including roll-off
24 bins or drop boxes" with "fully enclosed containers."
25 There is still a concern that this definition for "fully

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1 enclosed container" may apply to an operator in transit
2 with a collection vehicle, and we are working on that
3 language now.

4 The next definition of interest was the
5 "used tire" definition, which comes at the bottom of page
6 3, and the following definition of "used tire dealer."
7 Once again, the staff is attempting to clarify which tires
8 are under the Board's permit authority. In this one, a
9 "used tire" would be not considered a waste tire if it was
10 stored properly and stacked in racks and available for
11 inspection by Board staff or local fire marshals. This
12 was something that received several positive comments at
13 the workshops.

14 The next set of important regulatory
15 changes deal with the monofill standards, and they begin
16 on page 8. Many of these standards are similar to what we
17 use in the permitting standards for solid waste
18 facilities. Some of them have been tailored to fit tire
19 monofill facilities.

20 The majority of the standards were not
21 questioned. We did receive one set of comments asking the
22 Board to increase the fire protection requirements and the
23 fire fighting requirements, but the reply to that was that
24 these are minimum standards and that local fire
25 authorities can increase and require greater stringency.

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1 There was one request to consider specification of how
2 much fine material could be allowed in the disposal, and
3 we are working on that.

4 The next set of comments and regulations of
5 significance occur on page 22, and that is with the
6 "temporary waste tire hauler vehicle registration." This
7 is intended to allow a registered waste tire hauler to
8 legally use a substitute vehicle if his registered vehicle
9 is in some way inoperable, and that also received
10 favorable comments.

11 On page 23, staff is proposing the deletion
12 for the exclusion of foreign haulers. They will be
13 required to comply with the tire hauler regulations.

14 The next issue dealt with the trust fund,
15 and that's on page 28 of your package. The proposal here
16 is that the initial deposit to the trust fund would be
17 equal to the current closure cost estimate. That has
18 received some comment and we understand there are several
19 different interpretations, and probably more discussion of
20 that will occur later.

21 The last issue of importance is not one
22 that we are addressing through regulations, but it is the
23 issue dealing with amnesty days. The current approach,
24 until such time as perhaps we can get broader statutory
25 relief, will be to use current Public Resources Code

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1 42954, which specifies how licensed solid waste facility
2 collectors operate for local governments, and the
3 extension is that a local government who has received a
4 grant from the Waste Management Board can issue temporary
5 licenses for the one-time hauling of tires between five
6 and nine in number for amnesty days.

7 So with that, those are the major changes,
8 the major comments, and whether or not we responded. If
9 the Board has any questions, we would be happy to answer
10 them now.

11 CHAIRMAN EATON: Any questions of staff?

12 BOARD MEMBER JONES: I have --

13 CHAIRMAN EATON: Mr. Pennington.

14 BOARD MEMBER PENNINGTON: I'm curious to
15 hear, if we have anybody that wants to, from the audience.

16 CHAIRMAN EATON: Many.

17 BOARD MEMBER PENNINGTON: Okay. I would
18 just assume hear from them first.

19 CHAIRMAN EATON: Mr. Jones.

20 BOARD MEMBER JONES: Just one question on
21 the trust fund. We've had some past -- two past permits
22 where we said -- they came in, they originally wanted a
23 permit for say 100,000 tires. They funded a fifth. We
24 only allowed them to have 20,000, and as they funded, it
25 increased after it was verified by our closure staff. It

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1 meant that that operator didn't have to come back here
2 five times and he was limited by what he could have
3 on-site by the limit that the closure fund was done. Does
4 this reg package give us the opportunity to cut out some
5 of the trips to the Waste Board as funding becomes more
6 available?

7 MR. FITZGERALD: It's the intent. That's
8 what we're going to do. There's a question of the wording
9 we're having to wrestle with, but that's where we're
10 going.

11 CHAIRMAN EATON: What?

12 BOARD MEMBER JONES: I like his answer, but
13 I noticed a little bit of a scared look out in the
14 audience. I don't know. I'm hoping that -- just to cut
15 out the five trips, only let them what they can have to do
16 closure. It's what we did on a couple of sites down in
17 San Bernardino.

18 CHAIRMAN EATON: Let me ask. What, if any,
19 definitions in the regulations -- are they exactly the
20 same as referred to in the tire report or are there some
21 that are different? And if so, which ones are different?
22 Altered tire, used tire, waste tire, any definitions
23 different than what we used in the tire report?

24 MS. GILDART: Altered and waste tire are
25 the same. I don't believe we defined bailed tire in the

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1 report.

2 MR. FITZGERALD: Yes, we did.

3 MS. GILDART: We did.

4 MR. FITZGERALD: They should be the same
5 definition.

6 CHAIRMAN EATON: Are they? I know they
7 should be, but are they?

8 MR. FITZGERALD: To the best of my
9 knowledge, yes.

10 BOARD MEMBER JONES: So bailed tires is
11 still under -- altered tires is what I saw.

12 MR. FITZGERALD: That's correct.

13 BOARD MEMBER JONES: Where it had been
14 omitted from the report.

15 MS. GILDART: At this point, bailed tire
16 includes both whole or altered tires and the altered waste
17 tires are tires that have been bailed, shredded, chopped,
18 split apart. Both of these are considered a form of waste
19 tire that can be disposed in a landfill and fall under the
20 Board's permit authority.

21 Now, there are many comments pro and con,
22 including the bailed tire and altered tire together, and
23 staff would certainly seek Board direction on reconciling
24 those conflicting comments and positions.

25 BOARD MEMBER PENNINGTON: I was going to

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1 wait to discuss this.

2 CHAIRMAN EATON: I'm just trying to find
3 out where we start before we get into the public
4 testimony, knowing full well have we been consistent as a
5 Board, and if so, where we go.

6 BOARD MEMBER PENNINGTON: Well, at some
7 point I want to discuss --

8 CHAIRMAN EATON: Absolutely.

9 BOARD MEMBER PENNINGTON: I don't have a
10 problem with this altered waste tires including the bailed
11 tires, and I talked to some of these folks and I have some
12 other ideas that might --

13 BOARD MEMBER JONES: Mr. Chairman.
14 Mr. Pennington, I just have one other
15 question.

16 CHAIRMAN EATON: Okay.

17 BOARD MEMBER JONES: On the regs, where we
18 talked about delivery of shreds to a monofill, you talked
19 about keeping the crumb to a minimum. Why?

20 MS. GILDART: The concern was if a load
21 that was largely fine came into a monofill, it has a
22 higher likelihood of heating up.

23 BOARD MEMBER JONES: Of igniting?

24 MS. GILDART: Not of igniting. The
25 proposal was to separately monofill that kind of a load.

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1 However, it was pointed out that a load of shreds is
2 likely to have a percent of fines accompanying it, and we
3 have agreed that it is reasonable to include a percent
4 fines limit there. We don't at this time have a specific
5 number. We're going to try to work with the industry, you
6 know, two percent fines, five percent fines, whatever is
7 accompanying it.

8 BOARD MEMBER JONES: I think it's
9 important, though, in the discussion that the reason that
10 the doctor and everybody else said you've got to watch out
11 for the fines is when they heat up, if you do have a hot
12 spot in a tire fill, it's the metal shreds, it's the
13 organics, and it's those fines that eventually ignite.
14 And I think that's important because we're talking about
15 those types of operations and including bailed tires, and
16 bailed tires don't consist of crumb. I wanted to get that
17 point out. There is a safety issue.

18 CHAIRMAN EATON: All right. I have only
19 four tire regulation speaker slips. First, Terry
20 Leveille, Southern California Tire Dealers.

21 MR. LEVEILLE: Good afternoon, Chairman,
22 Members. For the record, I'm Terry Leveille representing
23 the Southern California Tire Dealers' Association.

24 We want to commend the staff for putting
25 this regulatory package together, particularly, and

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1 obviously the issue that has been fought for so long has
2 been the pulling the used tire out of the waste tire
3 definition. And I think it's been handled very
4 effectively, both here and in the Escutia Bill, and we
5 want to commend staff for their efforts on that behalf.

6 There is a concern in southern California,
7 however, amongst a couple of tire dealers that sell their
8 used tires to Mexican Nationals, and I understand the
9 reasoning for staff taking out the exclusion out of the
10 regulations. It's not back in the statute from what I
11 understand. What we'd like to do is alert the Board and,
12 for the public record, the staff that when we're
13 deliberating on future legislation efforts being made, to
14 reinsert some type of an exclusion for foreign haulers.

15 One of the problems we're looking at, and I
16 haven't gotten a ready answer yet, is that one of the
17 requirements for hauling is to be able to post a bond, and
18 we don't know yet whether or not foreign haulers can even
19 get a bond at this point. I've talked to the enforcement
20 staff and they said that they were studying the issue. So
21 it seems to me that before this particular exclusion is
22 completely eliminated and foreign haulers are prevented
23 from purchasing used tires from our tire dealers down in
24 southern California and taking them back across the border
25 to sell in Mexico, that this issue be evaluated very

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1 carefully. We don't want to put a lot of people out of
2 business.

3 That's the only issue that we have as far
4 as these particular regulations.

5 CHAIRMAN EATON: Thank you. Any questions
6 of Mr. Leveille?

7 Carolyn Baker.

8 MS. BAKER: Thank you, Mr. Chairman and
9 Members. Carolyn Baker representing the Cogeneration Nash
10 Coalition.

11 I just briefly want to thank staff for
12 their efforts to address our issues, particularly with
13 reference to the definition of "tire-derived product" and
14 "collection" in closed, locked container. And I would
15 just like to go on record as supporting the regulations as
16 presently drafted and ask the Board to send them out for
17 45-day comment.

18 CHAIRMAN EATON: Thank you, Ms. Baker. Any
19 questions of Ms. Baker?

20 MS. BAKER: Thank you.

21 CHAIRMAN EATON: Bob Winters.

22 MR. WINTERS: Good afternoon, Mr. Chairman,
23 Members of the Board, Senator.

24 I'm Bob Winters, President of Atmost Rubber
25 Company in Los Angeles. We are crumb rubber manufacturers

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1 and processors of tire-derived products. We don't
2 ordinarily start with the whole tire, we start with either
3 tire buffings, a tire byproduct of tire retreading, in
4 many cases. However, we have begun to buff in-factory, in
5 our factory, scrap truck tires. The way the regulations
6 are being proposed, the -- any tire-derived product would
7 have to be sold and removed from the premises in order to
8 qualify as a tire-derived product and be not counted as a
9 passenger tire equivalent.

10 Well, it seems to us that we should not
11 have to, in bringing these truck tires in and buffing them
12 the same way a retread shop would do in order to create
13 tire buffings, which is a feedstock for our factory, we
14 should not have to worry about removing those from the
15 premises and selling them. To do so would be a hardship.
16 It would be for all practical purposes not possible, and
17 we would like to see that as an exception to the
18 regulations when the tire-derived products are
19 factory-produced tire buffings.

20 Secondly, the definition of crumb rubber,
21 which is now quarter-inch and on down to the fines, in our
22 considered opinion is obsolete. I'm not sure how it got
23 defined originally as quarter-inch and smaller, but for
24 instance, I brought with me today a sample of crumb
25 rubber, one-inch in size. This is a product that we

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1 produce from the grinding of tire treads, a tire-derived
2 product. We put it in a bag, we sell it. It gets used
3 and it's out of the wastestream. I would like to pass
4 this around if I may.

5 This product in this particular case is
6 one-inch granulated tire tread. It can be granulated tire
7 chips with the seal removed so that it could contain
8 fabric. For some markets, fabric is permissible. For the
9 markets that this product is sent to, this is strictly all
10 rubber. But we are producing between quarter- and
11 one-inch as crumb rubber or product, as far as we're
12 concerned, and we would like to see the definition of
13 crumb rubber redefined in light of the new markets that
14 have evolved for larger particles.

15 If that's not practical, perhaps we can be
16 content with it just being considered tire-derived
17 product. For fire department regulations purposes,
18 though, crumb rubber is treated differently, at least in
19 L.A. County it is, as far as our ability to stack it, the
20 amount of material that is considered to be one hazard as
21 opposed to another hazard, that is, crumb rubber is a
22 lesser hazard in the eyes of L.A. County Fire than whole
23 tires or shredded tires.

24 As a result, we are not allowed to stack
25 our pallets of this material because it's considered scrap

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1 tires. If we can't stack those pallets, the economics of
2 warehousing become very untenable for us because it is a
3 very low commodity. The more material that we could
4 legally warehouse in a given amount of square footage, the
5 more cost-effective our operations become.

6 We have applied for permits time and again,
7 and in each case -- from the fire department, and in each
8 case they have deferred to the Waste Board's definition
9 for crumb rubber, which is quarter-inch and finer, and
10 anything else is being treated by them as whole tire or
11 shredded tire. This is not whole tire and it is not
12 shredded tire. It's a finished product. We sell it every
13 day -- well, I wish every day.

14 The only other thing that I would like to
15 address is the storage of tire shreds, two inches,
16 two-inch tire shreds containing a minimum seal but still
17 with the fabric involved. We are transitioning into whole
18 tire grinding in order to produce crumb rubber from these
19 shreds, and we see no reason why there should be a
20 limitation on the amount of time that those shreds can
21 reside on the premises after they've been shredded but
22 before they've been turned into crumb rubber.

23 It's not always practical or possible for
24 us to grind the shreds into crumb rubber immediately.
25 Weather is a big factor. It doesn't even have to be

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1 raining. If the humidity is very high -- the material,
2 rubber, is a very hydrophilic product and it likes to take
3 on moisture. Many of the specifications limit the amount
4 of moisture that can be trapped in the rubber. Therefore,
5 many times we have to wait until favorable weather in
6 order to granulate and grind the shreds, or for that
7 matter, even the tire treads that we bring in, into crumb
8 rubber.

9 We respectfully request that the definition
10 of crumb rubber be expanded up to one inch, with and
11 without fiber, and that the requirement of the buffings
12 that we produce in-house not be required to be sold and
13 moved off-site inasmuch as it is a feedstock for our
14 factory. It is moved from one portion of the factory to
15 another.

16 I thank you very much. Any questions?

17 CHAIRMAN EATON: Any questions for
18 Mr. Winters? Thank you.

19 MR. WINTERS: Thank you very much.

20 CHAIRMAN EATON: Jana Nairn.

21 MS. NAIRN: Thank you, Chairman. Janet
22 Nairn, Golden Byproducts Waste Tire Hauler and Major Waste
23 Tire facility.

24 In general, I'm very pleased with the
25 regulations that the staff has put together and want to

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1 commend them on a great proposal and also express an
2 appreciation in the cooperative effort of allowing us to
3 cooperate in the development of these regulations.

4 A couple of minor issues just to bring up
5 that I have some concerns about. One is also the foreign
6 hauler issue, and I do realize that that's outside of the
7 statute situation, but also feel that we, as an industry,
8 and with the cooperation of the Board need to seek some
9 alternatives for that because resale of tires is at the
10 top of the hierarchy, and by creating a situation with
11 these foreign haulers, we're causing some situations for
12 the potential of that as part of the solution to the whole
13 tire situation.

14 Also, I agree with some things that
15 Mr. Winters said in regards to tire-derived product, and I
16 just would like to offer again our suggestion that
17 two-inch and smaller product that is separated
18 mechanically by size, stored appropriately, and is being
19 sold and moved daily, in our case, or on a regular basis,
20 should also be considered tire-derived product; and that
21 in some manner where we can cooperate and include that
22 into tire-derived product definition would benefit those
23 processors in the industry that are too creating a product
24 that's moving readily and storing.

25 Our suggestion to that is one create a

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1 specification of some kind; two, to create storage
2 requirements for us; and/or three, to have an inventory
3 turnover situation so that there are limitations. It's a
4 fine line. Don't get me wrong, and mark that. I have
5 discussed that, too. There's a fine line between too much
6 regulation or not enough, and I think that needs to be
7 possibly looked at further.

8 That's the majority of my comments. I
9 again thank the Board and staff for the cooperation and
10 commend the staff on this report on the regulations. I
11 think they're very good.

12 CHAIRMAN EATON: Thank you. Any questions
13 of Ms. Nairn?

14 Denise Kennedy.

15 MR. WINTERS: Excuse me, Mr. Chairman.

16 CHAIRMAN EATON: Mr. Winters.

17 MR. WINTERS: I committed a bad error. I
18 did not thank staff for the wonderful job that they did
19 with these regulations and they've done a marvelous job.
20 The workshop they conducted in Diamond Bar, that's the
21 only one I attended. It was very well attended -- not
22 very well attended, but very well conducted, and I do want
23 to compliment them on a very good job.

24 CHAIRMAN EATON: Thank you, Mr. Winters.

25 Now Ms. Kennedy.

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1 MS. KENNEDY: Thank you. I, too, want to
2 thank staff for working with industry and all of us, and a
3 lot of effort has gone in on both parts together.

4 Overall -- I'm with Waste Recovery West.
5 We're a tire hauler, but we also collect about 2 million
6 tires and are the contracted company for Calaveras
7 (inaudible) up in Redding, and were taking some tires into
8 MELP.

9 CHAIRMAN EATON: Currently?

10 BOARD MEMBER JONES: Currently into MELP?

11 MS. KENNEDY: Currently? No, no. I just
12 said we "were."

13 CHAIRMAN EATON: We're listening here.
14 Three sets of ears listening.

15 MS. KENNEDY: Overall our company would be
16 in agreeance with the proposed regulations. The
17 concern -- there are some concerns. I want to make sure
18 that during the 45-day comment period we still can address
19 a few of them. I know some of us are out here talking on
20 some of the issues that the Board is aware of, I'm sure,
21 and as long as we have that 45-day comment period to
22 respond to it, we would be in favor of the proposed
23 regulations overall, but there are some two or three
24 points that we want the option to be able to still talk to
25 industry and the Board. So do we still have that

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1 opportunity if I say we accept them as written right now?

2 Okay. All right.

3 CHAIRMAN EATON: Thank you, Ms. Kennedy.

4 Any questions?

5 Mr. George Larson.

6 MR. LARSON: Mr. Chairman, Members. George
7 Larson representing Lincoln Tire.

8 I just want to reiterate the critical
9 importance of comments made by previous speakers, which I
10 will now embellish their comments on the foreign hauler
11 dealer issue, how critically important that is,
12 particularly to our business of course, but to the
13 movement of tires back into the economic mainstream. So I
14 would like to work in any way possible to address that
15 issue through an alternative regulatory language. I know
16 it has to be handled in the statute, but (inaudible)
17 approval we had for six or eight years, it's very
18 important.

19 Thank you.

20 CHAIRMAN EATON: Thank you.

21 Mr. Pennington.

22 BOARD MEMBER PENNINGTON: Are we through
23 with the audience?

24 CHAIRMAN EATON: All the public discussion.
25 The court reporter needs a break. I figure we can

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1 probably wrap it up fairly quickly and take a break.

2 BOARD MEMBER PENNINGTON: Sounds like a
3 good idea to me.

4 With that, I would say that I would be
5 happy to move that the waste tire facility regs we sent
6 out be sent out for a 45-day period.

7 I would also like to add, though, that
8 during that period, I would like to have further
9 discussion about the use of bailed tires in the altered
10 waste tire category, suggest that perhaps staff could look
11 at allowing bailed tires to be in a monofill or a monofill
12 cell in a Class III landfill, but still keep them out of
13 the definition of altered waste tires.

14 I think that if we're going to use the term
15 "bailed tires," we should identify better what bailed tire
16 is. This says it's been compressed. How much of a
17 compression are we talking about? It says a binding
18 material. Is that steel bands or is that duct tape? So I
19 think we need those expansion on the terms.

20 I still can't bring myself to believe that
21 when you bail something, that's altering it. I think if
22 you compress it and take it apart in six months or
23 whatever, you can probably put it back on a car and drive
24 it. There are some alternatives and perhaps monofill,
25 it's okay, but I think it violates the spirit of knowing

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1 which tires in the landfill.

2 Anyway, I'll move these out for a 45-day
3 comment period.

4 BOARD MEMBER JONES: Mr. Chairman, I'll
5 second it, but I would like to make a comment.

6 CHAIRMAN EATON: Before we vote on the
7 motion, Mr. Jones.

8 BOARD MEMBER JONES: Staff has always
9 been -- or I thought we always talked about that. It
10 wasn't the fact that a tire was bailed and considered
11 altered that allowed it to be landfilled. It's because it
12 was source reduced and compressed, volume reduction. If
13 that's the case, we need that definition in these regs,
14 and then it doesn't make any difference to me if they come
15 out of the altered tired state.

16 This is clearly a market-driven issue, and
17 for us to limit our options when we're trying to clean up
18 all the tires in the state of California does not make a
19 lot of sense to me, and I think this is a compromise that
20 I wouldn't have any problem with. I could -- as long as
21 the definition is in there that this Board has always
22 relied on on why you can landfill bailed tires, then I
23 wouldn't have a problem of taking it out of the definition
24 of altered. But I think we've got to keep our options
25 open because more options could mean lower prices, and if

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1 we're the ones paying the tab to clean up all the tires in
2 the state, I want every option available.

3 CHAIRMAN EATON: Mr. Roberti will be back
4 in a second. Why don't we take a short break until the
5 Senator comes back and recess for about five minutes.

6 Thank you.

7 (Brief recess taken.)

8 CHAIRMAN EATON: All right. Back in
9 session. Notice a quorum.

10 I just wanted to ask if there are any ex
11 parte communications. Senator Roberti, any?

12 BOARD MEMBER ROBERTI: No.

13 CHAIRMAN EATON: Mr. Pennington, anything?

14 BOARD MEMBER PENNINGTON: Mr. Chairman, I
15 just want to make it clear that what I'm saying is we put
16 them out for 45 days as they are now, but during that
17 45-day period, I want the staff to look at these, the
18 issues that I brought up, and we can further discuss that
19 during the 45-day period. So let's send them the way they
20 are now.

21 CHAIRMAN EATON: Before we get to that, do
22 we have any ex parte communications to report?

23 BOARD MEMBER PENNINGTON: No.

24 CHAIRMAN EATON: Good.

25 Mr. Jones.

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1 BOARD MEMBER JONES: I don't have any ex
2 partes, but if they're going to listen to his things, I
3 want them listening to mine, too.

4 (Laughter)

5 CHAIRMAN EATON: I think perhaps November,
6 maybe the 19th is a good day for the two of you to sit
7 here in a room of individuals and see what can be worked
8 through. All right.

9 So to reiterate, there's a motion by
10 Mr. Pennington, seconded by Mr. Jones, that the proposed
11 regulations go out for 45-day comment period, and during
12 the interim time, staff will work on a number of issues
13 that Mr. Pennington had set forth regarding some of the
14 definitions. Without objection -- Madam Secretary, please
15 call the roll.

16 BOARD SECRETARY: Board Members Jones.

17 BOARD MEMBER JONES: Here. Yes.
18 Sorry.

19 BOARD SECRETARY: Moulton-Patterson.
20 Pennington.

21 BOARD MEMBER PENNINGTON: Aye.

22 BOARD SECRETARY: Roberti.

23 BOARD MEMBER ROBERTI: Aye.

24 BOARD SECRETARY: Chairman Eaton.

25 CHAIRMAN EATON: Aye.

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1 Mr. Jones.

2 BOARD MEMBER JONES: Mr. Chairman, on
3 Agenda Item Number 38, which we already heard, when the
4 County of L.A. Fire Department indicated to this Board
5 that there are seven indicators when a tire pile is going
6 to go up in flames and that that one person has met all
7 seven of those criteria, we have an experience here at
8 this Board that every time we issue a cleanup and
9 abatement order, there is a mysterious fire. I think --

10 CHAIRMAN EATON: Are you talking about the
11 match component?

12 BOARD MEMBER JONES: The match component.
13 Exactly. I do think that -- I understand staff wants to
14 wait until they get an administrative hearing. There was
15 a project we did in Oroville when we actually did the
16 administrative hearing after the cleanup. We would look
17 foolish, I think, to be warned by the Fire Chief of L.A.
18 County that there is the potential this thing could go up
19 in smoke and we waited for an administrative process.

20 I think that if staff could work with Legal
21 staff to figure out what is the quickest way to remediate
22 this and still keep our options open in front of an
23 Administrative Law Judge after the fact, I think we should
24 learn from our experiences and maybe hasten this process a
25 little bit and hope that you can convince the

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1 Administrative Law Judge that we did it because we felt
2 there could be an impact to the public health and safety.
3 That would be my suggestion. I don't know how other Board
4 Members feel about it.

5 CHAIRMAN EATON: Why don't you make a
6 motion that we reopen Item 38 so that we can consider it.
7 If you want to make a motion, we can do it and see if it
8 goes up or down.

9 BOARD MEMBER JONES: Mr. Chairman, I would
10 like to reopen Agenda Item 38 and I would like to --

11 CHAIRMAN EATON: Hold on one second. We
12 need a second.

13 BOARD MEMBER PENNINGTON: Second.

14 CHAIRMAN EATON: All right. Mr. Jones
15 moves, Mr. Pennington seconds we reopen Item 38, and I
16 also have something on Item 38.

17 So go ahead, Mr. Jones.

18 BOARD MEMBER JONES: If we have -- I was
19 going to make a motion.

20 CHAIRMAN EATON: Sure. All right. You can
21 make a motion with regard to that. I was remiss. There
22 was one speaker slip and it doesn't say support or oppose,
23 but apparently MELP would like to speak on Item 38.

24 All right. Steve Artus, I apologize, but
25 in the future if you could put support or oppose, that

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1 would be helpful.

2 MR. ARTUS: Okay. I will do that.

3 Good afternoon, Mr. Eaton, Members of the
4 Board. My name is Steve Artus. I am the General Manager
5 of Modesto Energy.

6 I want to assure everyone that Waste
7 Recovery West is not bringing any tires into MELP. No one
8 is bringing any tires into MELP. I did want to raise a
9 couple of issues with the winterization at the Filbin Tire
10 Pile site because that was something I was going to talk
11 about.

12 One is this: There are a number, a large
13 number apparently, of unburned tires on a very steep hill
14 on that site. Those tires are subject to remediation by
15 this Board to Mr. Filbin and others. We have offered the
16 facility for consumption of those tires both to
17 Mr. Filbin, also to the County. We also make the same
18 offer to you. Based on our experience on that hill, if it
19 starts to rain before those tires are moved, it will be
20 inaccessible probably until March or April, so we would
21 like some consideration to moving those tires as soon as
22 possible. Mr. Filbin has indicated he will do so as soon
23 as the fire is out and the smoke is clear. If he does not
24 want to do it, we are prepared to do it ourselves and move
25 them down to be consumed at our facility.

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1 Another item is -- I don't know if any of
2 you have been out there, but they've been making
3 remarkable progress in putting the fire out. It may be
4 out by the end of this week, certainly by the end of next
5 week is my guess.

6 CHAIRMAN EATON: Is that the oil portion or
7 the actual tires themselves?

8 MR. ARTUS: The actual tires themselves.
9 There are some tires that they are recovering underneath
10 the burning tires that are on top of the pile. Those
11 tires may also be usable, so I would ask your staff if we
12 could work with them and maybe somehow take a look at
13 those tires, perhaps segregating them if possible, because
14 we would like to remediate those too if they are burnable
15 in our facility.

16 Another item I would like to bring up is I
17 understand a large trench is going to be built to contain
18 pyretic oil and also drainage. Your staff has offered to
19 let us look at those plans. Our original access road
20 coming to the tire delivery area from outside is all but
21 destroyed. We have cut a new road now, which is being
22 used by the EPA and the contractor in their fire fighting.
23 We would like to take a look at the trench and try to
24 coordinate our road with that trench.

25 Finally, I'm sure you're aware of it, but

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1 the Regional Water Quality Control Board issued a cleanup
2 and abatement order last Thursday, which we received on
3 Monday. They issued that to just about everybody that's
4 ever had anything to do with a tire pile. They call for a
5 series of steps in there, one of which is a winterization
6 plan. I would just like to ask staff, I assume they're
7 coordinating with the Regional Water Quality Control Board
8 on the winterization plan and that sort of thing.

9 That concludes my comments.

10 CHAIRMAN EATON: Thank you, Mr. Artus. I
11 apologize.

12 MR. ARTUS: Thank you.

13 MR. FITZGERALD: Yes. We are coordinating
14 with them.

15 CHAIRMAN EATON: Thank you. Okay.

16 Mr. Jones.

17 BOARD MEMBER JONES: Mr. Chairman, I would
18 like to move adoption of Resolution 1999-576, White Rock
19 for \$120,000 --

20 CHAIRMAN EATON: You just wanted to ask to
21 try and --

22 BOARD MEMBER JONES: I would like.

23 CHAIRMAN EATON: -- try and give direction
24 to the staff. We don't need any motion, just have the
25 item open and during that item make the direction that you

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1 deem necessary, unless there's an objection by any of the
2 Members and I don't see any.

3 BOARD MEMBER JONES: I would like to do
4 those three projects and instruct staff to work with our
5 legal counsel and the Fire Chief to get on the Import
6 Tires as quickly as possible, even if it means prior to
7 the administrative hearing, and work out a strategy to get
8 to the administrative hearing after the fact and hopefully
9 prior to any fire.

10 BOARD MEMBER PENNINGTON: Second that
11 motion. I would like to ask counsel, is there a
12 possibility the fire department could get us access to
13 that quicker?

14 MS. TOBIAS: I think the locals may be
15 able to do that faster. I think certainly since they're
16 the ones that are urging the speed, we'll certainly work
17 with them on trying to do that if we don't get consent of
18 the landowner, which we probably don't have.

19 CHAIRMAN EATON: That's Item Number 38.
20 Last item of the day, Item Number 39, contract concepts.
21 It's been a long day, so hopefully we can
22 kind of go through and highlight them. We only have two
23 speakers. I ask that they do the same.

24 MS. VILLA: Mr. Chairman, Board Members,
25 I'm Susan Villa with the Business Administration Office.

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1 The item before you today is a discussion
2 item only of the concepts for consulting and professional
3 services contracts and grants for funding in the 1999-2000
4 fiscal year. Staff requested concepts from program and
5 Board Members in June, and this item before you is the
6 culmination of the concepts that have been compiled.

7 Attachment A in your item is a listing of
8 the concepts, and Deputies are here to give brief overview
9 of the different concept areas.

10 MS. FISH: We could go through -- Karin
11 Fish of the Administration and Finance. We could go
12 through and have the Deputies talk about each one and take
13 questions.

14 What Executive staff did last week is they
15 put together a recommendation, taking into consideration
16 that we're about five months into the year. We had an
17 enormous amount of concepts. You can see it's well over
18 the amount that we have available to fund, so we put
19 forward a recommendation that your offices got last
20 evening in hopes that you could take a look at it.

21 We tried to prioritize. It was very hard
22 decisions in all cases, looked at some of the
23 appropriateness of different funds coming out of different
24 appropriation authorities, so this is our kind of best
25 stab on bringing the numbers a little closer with the

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1 amount we have, as well as looking at possibly splitting
2 some of the concepts between two different years given the
3 lateness that we're getting started this year, the amount
4 of time it will take to bring the concepts to full
5 contracts, maybe looking at next year's allocation and
6 spreading it between a couple of fiscal years so that way
7 staff might get an early start on next year's allocation
8 at the same time they're working on getting this
9 allocation done in the remaining seven months.

10 So we could go through each one of the
11 groups and talk about each concept as it appears in the
12 packet or we could take questions, whatever the Board
13 would like. We just would like to give you information to
14 help you for your decision for next week.

15 CHAIRMAN EATON: So currently, if I
16 understand it, at least with the IWMA, we have how many
17 funds -- how much available and how much requested?

18 MS. FISH: There's \$1.5 million of
19 discretionary funds that are available, and we had -- we
20 were over-subscribed about \$3.4 million. So we would have
21 to reduce that amount out of the concepts that were
22 proposed. Similar --

23 CHAIRMAN EATON: So we have a larger demand
24 than supply of money. I just want to find out. As a
25 Board, we need to look at how we reconcile this \$3.5

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1 million that is not appropriated but we don't have the
2 money. RMDZ.

3 MS. FISH: Similar situation. You have
4 about \$4.9 million. You have the original \$4 million of
5 authority that we have for last year as well as this year
6 and next year, then you have increased authority relative
7 to the Project Recycle effort, and you have some leftover
8 funds from last year's \$4 million that were not allocated
9 during last year. So that gave you about \$4.9 million,
10 but in that fund also, there were over \$10 million in
11 requests and so you're over-subscribed about \$5.6 million.

12 CHAIRMAN EATON: And the restriction on the
13 RMDZ relates to the Senate Bill 1066 which provided the
14 guidelines as to how we could spend the money.

15 MS. FISH: Yes. And so some of the --
16 you'll see in the Executive Staff recommendation that we
17 are not recommending on some of the concepts in the IWMA
18 because we do not have the same grant authority in the
19 IWMA that we do in RMDZ, as well as the fact that some of
20 the grant programs that you have targeting RMDZ are not
21 consistent with the language under which the \$4 million
22 was granted. And so we took those things into
23 consideration in the recommendation that you see before
24 you as well.

25 CHAIRMAN EATON: All right. Members, with

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1 regard to how would you like to proceed, I don't
2 particularly want to hear each and every item. I know
3 that staff has been working. Are there any questions on
4 particular matters or would you like to hear public
5 comment and then discussion?

6 BOARD MEMBER PENNINGTON: That's fine.

7 CHAIRMAN EATON: Two speakers, and I'm
8 going to butcher this name. Kate, and I think it's
9 S-y-e --

10 MS. SQUIRE: Squire.

11 CHAIRMAN EATON: Boy, must be City of
12 Berkeley. I told you I would butcher it.

13 MS. SQUIRE: It's a Yeoman farmer from
14 England. Thank you. My name is Kate Squire, and I'm the
15 Manager of the Environmental Economy Program within the
16 Office of Economic Development in the City of Berkeley.
17 Thanks for the opportunity to speak to you today regarding
18 the City of Berkeley's request for a \$250,000 service
19 contract.

20 We propose to create a demonstration
21 eco-industrial park and to expand Berkeley's public
22 information, education and assistance in green business
23 development and green building. Cynthia Cohen, the
24 Project Manager of the ecopark, is also here to answer
25 questions from the Board.

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1 Berkeley's eco-industrial park as proposed
2 will provide 47,000 square feet for remanufacturing and
3 material recovery business in Berkeley. A critical
4 feature of our ecopark concept is the use of green
5 building materials in every aspect of the building
6 rehabilitation. Our park meets bigger goals of waste
7 prevention such as increasing our ability as a city to
8 recover materials from the wastestream, particularly
9 construction and demolition waste, as we approach a
10 50-percent reduction for our city, and provides expanded
11 markets for recycled materials by the remanufacturing
12 businesses. And most importantly for us as a city, it
13 retains and creates jobs.

14 The proposed ecopark will use renewable,
15 reused, recycled, and salvaged material in the buildout of
16 the facility, showcased with signage and exhibits
17 throughout the building explaining the materials that are
18 used and acknowledging the sponsorship of the Integrated
19 Waste Management Board.

20 A team of experts in recycling, reuse, and
21 green building has already identified the specific
22 materials for use in the rehab of the existing building.
23 The list of green building materials is in your packet.

24 The ecopark will also provide space for
25 Urban Ore, our premiere reuse and recycle company. Urban

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1 Ore has an exclusive agreement with the City of Berkeley
2 to divert material from our Transfer Station four. It
3 also provides space for remanufacturers which need
4 affordable space and industrial space in which to expand.

5 We had an ecopark study last year and
6 identified over 25 remanufacturers locally that were
7 interested in expanding in Berkeley. A key barrier for us
8 in our built-up city is the need for industrial
9 affordable, available space. The ecopark today has space
10 for 12 remanufacturers that are ready to sign leases.

11 The ecopark will also create over 50 new
12 jobs immediately and over the next year. Our city has a
13 special policy on the creation of blue collar and
14 entry-level jobs for low income people, and we have
15 training agencies and funders interested in training local
16 residents for jobs in recycling as a career.

17 The ecopark will retain Urban Ore in
18 Berkeley. Berkeley City Council has directed the City
19 Manager and me and staff to provide as much assistance as
20 possible to retain Urban Ore in Berkeley. It's a private,
21 for-profit business that's operated in the city for over
22 20 years and is crucial to Berkeley's (inaudible) material
23 recovery system and to Berkeley's goal to reach 50 percent
24 diversion by 2000. Urban Ore currently diverts over 4500
25 tons of materials from our landfill. Urban Ore also

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1 provides leadership in our sustainable business alliance,
2 which is a non-profit created in 1998, made up currently
3 of over 50 green businesses, non-profits, in the
4 University of California and the Lawrence Berkeley lab.
5 Urban Ore is also recognized internationally as a pioneer
6 in recycling and reuse, and it does consulting worldwide.
7 And people come from all over and tour green businesses
8 with Urban Ore as the host.

9 The time is right for an ecopark of the
10 nature that we propose. It's already stimulated great
11 interest and unprecedented support by political leaders at
12 all levels of government. It's been covered by the media
13 in over 25 stories on the TV and the print media over the
14 last four months. The citizens are very interested in it.
15 I get about 250 calls a year on green business, green
16 design and ecopark.

17 The businesses are very interested in it
18 because they're interested in affordable space in which to
19 expand, and the development community, including major
20 contractors in our area, are having a lot of interest in
21 the project.

22 The City of Berkeley already has committed
23 to contributing well over \$200,000 for the ecopark in
24 deferred payment loans, fee waivers, and contracts for
25 waste diversion. Creating the ecopark fits well with our

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1 overall strategy to promote the environmental economy.
2 Our environmental economy strategy was passed by our city
3 council in 1994. Basically we provide assistance to
4 attract and retain green businesses. We've identified
5 nearly 150 in our community already.

6 We help all businesses to become green. We
7 have over 30 policies and programs to promote
8 eco-efficiency and other green operations of fitness, and
9 we help build an infrastructure to support green business
10 and green building by providing public information and
11 assistance to target groups, businesses, and also to
12 develop demonstration projects and by delivering services
13 through collaboratives such as the Recycling Zone, but
14 also such as Reenergize, Rebuild America for Energy, and
15 other collaboratives.

16 The ecopark fits well with this strategy
17 and builds our existing infrastructure because it provides
18 a demonstration industrial facility to compliment our
19 existing eco-house, which is a residential demonstration
20 in green building and design, and our green resource
21 center, which provides information to contractors and
22 commercial projects for green building and eco-efficiency.
23 The ecopark proposal synthesizes the best practices in
24 green business development, green building design, and
25 eco-efficiency of business operations.

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1 In part two of our proposal, we request
2 \$50,000 of the \$250,000 to support and publicize our
3 projects that already exist and the ecopark as proposed to
4 build on our existing public-private partnerships.
5 Working in the environmental economy for five years, I've
6 learned that really what people want is replicable, public
7 information that we can use easily, specific information
8 on how to do things. We also need to support and expand
9 our public-private partnerships to mobilize resources.
10 There are a lot of resources in the Bay Area, but not
11 necessarily connected.

12 If funded, we will create important monthly
13 workshops broadcast from UC Berkeley to sites throughout
14 California on green building and design, green business,
15 et cetera, and have knowledgeable people putting on the
16 workshops, including people from the Integrated Waste
17 Management Board, if you're interested. We'll also create
18 replicable web resources, coordinating with resources that
19 are already out there so people can find the databases, et
20 cetera, easily, and will create a publicly accessible
21 computer work station to access the web resources, and
22 we'll work to build on our existing infrastructure to make
23 it stronger.

24 The two pieces of our proposal, the ecopark
25 demonstration of best practices and our support for

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1 existing infrastructure and expansion of infrastructure of
2 public information, will help us create new replicable
3 models on green business and green building and to respond
4 to inquiries that we get from throughout the world and
5 throughout California.

6 Thank you again for taking the time to
7 learn about our contract proposal. We believe that by
8 working with you, we can provide models that we need to
9 galvanize public interest in waste prevention throughout
10 California.

11 CHAIRMAN EATON: Any questions.

12 BOARD MEMBER JONES: I have a question.

13 CHAIRMAN EATON: Mr. Jones.

14 BOARD MEMBER JONES: You say this is going
15 to be the new facility for Urban Ore.

16 MS. SQUIRE: Yes, as well as 12 other
17 businesses.

18 BOARD MEMBER JONES: Urban Ore lost its
19 lease.

20 MS. SQUIRE: Yes.

21 BOARD MEMBER JONES: How much of this
22 \$250,000 is going to be so they get a new place to
23 operate?

24 MS. SQUIRE: The current proposal, \$200,000
25 of the \$250,000 will be for the build-out of an existing

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1 47,000-square-foot industrial facility for which Urban Ore
2 would take a major tenant space and 12 other
3 remanufacturers would also be in the building. They would
4 take a little bit more than half of the facility, and then
5 the other remanufacturers, which currently are interested
6 in signing leases, they're either in Berkeley or in the
7 East Bay. They would take the almost other half of the
8 building.

9 BOARD MEMBER JONES: So half of the
10 \$250,000 is to relocate Urban Ore.

11 MS. SQUIRE: I'm not sure if you -- can you
12 divide it up like that?

13 BOARD MEMBER JONES: I understand that, but
14 where I have a problem is that a lot of businesses lose
15 their lease --

16 MS. SQUIRE: Right.

17 BOARD MEMBER JONES: -- and I'm just
18 wondering if it's appropriate to use state funds to help
19 one of those businesses move into another facility.
20 That's all.

21 MS. SQUIRE: I think the reason the City of
22 Berkeley, why we're excited about this project is not just
23 to retain Urban Ore, but what we have in Berkeley is an
24 incubator for new technologies and new prophecies, so we
25 have many remanufacturing businesses in Berkeley growing.

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1 What we don't have is we don't have businesses that can
2 take over sites at the time that the site is available.
3 We lack space in Berkeley, and I work in
4 the Business Department, so I see it every day. So what
5 we need is we need an opportunity to take over a site,
6 essentially commandeer space that's affordable for many
7 businesses to use, and Urban Ore has provided that
8 opportunity. The site that they're interested in was
9 looked at by another company about six months ago, Power
10 Light, and that company could only take half the space.
11 And I tried to find other co-tenants and the timing wasn't
12 right, so Power Light couldn't do that. Now Urban Ore
13 wants half. This is a big facility and other businesses
14 also want it, so it's good for Berkeley because we can
15 essentially obtain a site, control a site for an ecopark.
16 We've known for five years that we wanted
17 to do an ecopark, but we couldn't locate space in town. A
18 lot of the ecoparks that are existing in California now or
19 that have started are either old army bases or somehow --
20 you know, FMC has an environmental incubator, but that's
21 donated space.
22 Berkeley is such a built-up city, space is
23 such a premium, we don't have that kind of donated or free
24 space. So what we need to do is command, commandeer,
25 secure space for remanufacturing in a market that's so hot

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1 it's difficult to do that. So that's why this build-out
2 is crucial for us. From a business point of view, beyond
3 the demonstration of the green building and design and
4 retention of Urban Ore, which is also a goal, we would
5 like to secure sites for our expanding remanufacturers.

6 BOARD MEMBER JONES: So the \$250,000 is to
7 commandeer this property.

8 MS. SQUIRE: \$200,000 of the \$250,000 is to
9 secure the property and build it out as a green building
10 and design showcase. And right in the area of this
11 facility there are, I would say, 20 green building and
12 design businesses like Eco Timber, Counter Production.
13 There are a lot of businesses right nearby that have
14 products that will be showcased in this building.

15 BOARD MEMBER JONES: You have 20 eco-type
16 green building places within this neighborhood.

17 MS. SQUIRE: Yes.

18 BOARD MEMBER JONES: So you want \$200,000
19 of our money to move Urban Ore and to buy some of that
20 product from those 20 to showcase on these 12 other
21 businesses.

22 MS. SQUIRE: I'm not sure that the money
23 would necessarily be used to buy the product from the
24 Berkeley businesses.

25 BOARD MEMBER JONES: I'm just trying to get

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1 a sense --

2 MS. SQUIRE: Right. I understand.

3 BOARD MEMBER JONES: -- because I'm having
4 a hard time with this.

5 MS. SQUIRE: Okay.

6 BOARD MEMBER JONES: -- so I'm trying to
7 get a sense of what it really is. If there's 20 green
8 companies right next door, we're going to add 12, that's
9 good. I don't have a problem with that --

10 MS. SQUIRE: Right.

11 BOARD MEMBER JONES: -- but we have limited
12 money.

13 MS. SQUIRE: I understand.

14 BOARD MEMBER JONES: So I'm trying to
15 figure out -- in fact, it's already been felt, you've
16 already moved things, but this \$200,000 helps you buy a
17 piece of property. You know, I don't blame you for
18 trying, but I'm having a hard time to figure that out. If
19 it's just to move Urban Ore, I wish they would have given
20 me grants a lot earlier so we could have moved some stuff.

21 MS. SQUIRE: You're wondering --

22 BOARD MEMBER JONES: We just don't have a
23 whole lot of money.

24 MS. SQUIRE: -- I think why the other
25 companies maybe aren't buying the product to showcase. I

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1 think that we could assume that many of those companies
2 that exist in Berkeley will be contributing product and
3 they already are contributing time and sample products as
4 part of our other project, the Green Resource Center. So
5 I don't think that we should assume that the Board money
6 will be used mostly to buy product from nearby Berkeley
7 businesses.

8 I think that we have a lot of input and
9 volunteer work and donated material from existing
10 businesses. That would not be the use of the money. The
11 money would be used overall to build out a complete design
12 and green building facility and showcase it and to -- yes,
13 to move Urban Ore, not to buy the building to do the
14 build-out on the building, but also to provide space for
15 the other remanufacturing businesses that are not going to
16 be able to stay in Berkeley now or in the Bay Area without
17 securing an affordable site.

18 BOARD MEMBER JONES: Thanks.

19 CHAIRMAN EATON: Any other questions?

20 MS. SQUIRE: Thank you very much.

21 CHAIRMAN EATON: Thank you.

22 BOARD MEMBER ROBERTI: Mr. Chairman.

23 CHAIRMAN EATON: Senator Roberti.

24 BOARD MEMBER ROBERTI: Her presentation is
25 sort of -- first, which I endorse this project and do hope

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1 to eventually vote for it, it sort of prodded my mind and
2 I'm wondering if staff can now help me with how much money
3 is in our contracts and our general EMAY fund, whatever we
4 call it, how much money do we devote to source reduction
5 contracts, and how much money do we devote to the
6 durability of a product? Because in my mind, they're
7 different issues. I don't want to wax philosophically,
8 but I view the underlying problem -- most of what we're
9 doing is that we have a waste society and that products
10 aren't made to last long, and I don't see too much here on
11 that point. In fact, I don't even think it's in our
12 hierarchy.

13 Source reduction is not the same as
14 durability, and yet I think the main problem that we face.
15 Maybe I'm wrong. Maybe we consider it source reduction.
16 I think we do, but then when we talk about source
17 reduction contracts, how much goes to the life of a
18 product, if it matters, and how much goes to source
19 reduction? That is, to make less of a product that we
20 eventually will throw away. Do you see my point?

21 MS. FISH: Maybe.

22 BOARD MEMBER ROBERTI: Maybe?

23 (Laughter)

24 CHAIRMAN EATON: That's encouraging. Throw
25 it out there.

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1 BOARD MEMBER ROBERTI: I've done worse
2 before.

3 MS. FISH: Well, I think traditionally with
4 the Board, the IWMA was focused on your 50 percent and
5 your 50 percent. So the focus has been relatively the
6 priority areas, looking at how we could help the
7 jurisdictions achieve their goal of reduction, however it
8 was, whether it was C&D, organics. So up to the point
9 where we did some BCPs to get increased money into the
10 IWMA to look at some of those areas focussed, I'm not sure
11 that we did a lot relative to that.

12 Now, with the RMDZ money and the focus on
13 market development activities, we're doing more beyond, I
14 think, the jurisdictions.

15 BOARD MEMBER ROBERTI: I guess that's
16 right. We're talking about going beyond the
17 jurisdictions.

18 MS. FISH: Right.

19 BOARD MEMBER ROBERTI: For some reason I
20 guess we don't compute durability of the product, if the
21 jurisdiction uses a long-life product as opposed to a
22 short one necessarily in diversion goals. I don't know if
23 I'm making myself clear.

24 BOARD MEMBER PENNINGTON: We do. We do
25 with the rubberized asphalt. We talk about durability.

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1 CHAIRMAN EATON: And I think inherent in
2 some source of waste reduction, in other words, where we
3 go in and deconstruct and/or we utilize particular types
4 of products, old wood being a perfect example, is on a
5 waste reduction, source reduction, but it has a durability
6 element to it that's inherent with the fact that it's been
7 around for -- in many cases, some of the wood is 60, 70
8 years old. The wood that was at Mather when we were out
9 there the other day looking at their deconstruction, they
10 were talking about, I believe, 1950. So it's 40 years
11 old. So I guess within that, it's inherent. I don't know
12 if we've ever segregated a concept of durability. In some
13 cases, at least when it comes to certain products that are
14 reused, reduced is inherent in that.

15 BOARD MEMBER ROBERTI: When we talk about
16 reuse, and it came out of this contract issue. I want to
17 throw it out, Mr. Chairman, that I hope in the awarding of
18 our contracts and our structure we start thinking in terms
19 of the durability of the product and ways of helping
20 businesses, whatever, and the individuals to use products
21 that last longer or to make products that last longer.
22 And that's different than reuse, although you're right as
23 in the case of wood. It overlaps.

24 CHAIRMAN EATON: That's the whole idea
25 because prior to going and seeking the additional funds in

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1 the RMDZ, frankly the Board has been strapped over the
2 last several years with just really the IWMA and no other
3 access. It was roughly the \$1.5 million they had to hand
4 out and that was kind of it.

5 It was really at the urging of others that
6 we went in and actually got the special allocations of the
7 RMDZ. Hopefully that will -- and that's been the genesis.
8 This is the second time through, so we are breaking new
9 ground. So I don't think there's any kind of parameters
10 that we can't explore for any particular matter when we
11 look at it.

12 Hopefully that will be part of the overall
13 policy emphasis, where we want to go five years from now
14 and ten years from now. That's one of the great things
15 about it, and it will take some real deliberation to find
16 out which one of these do we think will succeed. Just
17 like a loan, do we think they're going to make it or not?
18 Not all of them will get funded, and I think the other
19 parameter is do we fund 100 barely or do we fund five
20 fully? Those are just questions that I think, as we move
21 through some of this, we'll be able to take up there with
22 that.

23 BOARD MEMBER JONES: Mr. Chairman.

24 CHAIRMAN EATON: Mr. Jones.

25 BOARD MEMBER JONES: To the heart of the

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1 Senator's concerns about durability, I agree with you, but
2 I will tell you as a scavenger for an awful lot of
3 years --

4 (Laughter)

5 BOARD MEMBER JONES: -- like 22, I have a
6 garage and a home and other areas that are full of things
7 that were built very durably that I still use and enjoy,
8 that I found on garbage trucks and transfer stations and
9 MERRFs that the public discarded, which is I think why you
10 helped write this Bill, because it goes to the heart of
11 what we're doing, which is trying to figure out why we're
12 such a throwaway society. I'm not sure that -- I have
13 things that I found in the garbage an awful long time ago
14 that are still in the house and being used every day. And
15 I think I like those better than the ones I bought
16 recently. I think they have durability. It's kind of the
17 way we're built.

18 CHAIRMAN EATON: I won't belabor the point
19 because we have one more public speaker. It's kind of
20 ironic, now that you mention the issue of durability, if I
21 may, just as I think about it. The two hurdles we've had
22 both on a state level, the local level, and I think even
23 in the private sector, when it comes to using products
24 that either reuse or recycle or products that have a
25 recycled content in them, the first thing that's always

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1 thrown up to us as a barrier is cost. They cost more,
2 therefore we can't do them.

3 The second issue, surprisingly, is
4 durability. They're not tested. We don't know. That was
5 the interesting thing we sought in the southland to some
6 degree and is trying to be replicated in the north, where
7 they took the next step. They did the rubber tires for
8 the trees coming up through the sidewalks. It's a barrier
9 that we, I think, as a Board have to try to break down.
10 Those are the two main points. There's three or four
11 others that they always try, but it's always cost and
12 durability. The product is improving. Why should we
13 have to replace it in two years? And I think that's
14 another sub-issue within the whole durability concept.
15 Somehow how we've got to push that out, and maybe, whether
16 it be bid specifications as we do projects or some of
17 those other things, it's tough.

18 BOARD MEMBER ROBERTI: And the issues
19 overlap to the extent we may come up with a contract to
20 make a better recycled item or item for reuse, maybe part
21 of our concept should be that we think of giving monies to
22 making recycled items more durable because you're
23 absolutely right. I've heard the same. It's not durable,
24 it's not strong enough.

25 CHAIRMAN EATON: Mr. Bob Vice has been

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1 waiting patiently to get his pitch in on KVIE, California
2 Heartland.

3 MR. VICE: Thank you, Chairman Eaton,
4 Members of the Board, Senator. My name is Bob Vice and
5 I'm the Program Coordinator for KVIE-PBS series California
6 Heartland, and I have a very short video, and if this
7 works the way it's supposed to I should be able to push
8 "play."

9 CHAIRMAN EATON: If the lights go out,
10 we're not turning them back on.

11 (Laughter)

12 BOARD MEMBER ROBERTI: This is more fun
13 than the speech.

14 (Video presentation)

15 MR. VICE: Well, I'll make my presentation
16 very, very short. I did want to show you the video and
17 let you know how much we have enjoyed working with your
18 Board staff this past year and integrate some of the
19 programs in our television series that you have
20 instituted.

21 This short video covered just the
22 composting issues. I'd like to tell you a little bit
23 about the success of the program this past year and how
24 that success furthers your goals. Our growth in the
25 video, in viewers in the market share, have exceeded even

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1 our highest expectations. It's one of the very few
2 programs in California that is on every PBS station.
3 Statewide audience this past year between Season 2 and
4 Season 3 grew by 24 percent. We're now over 600,000
5 people that tune into this program each and every week.

6 In San Francisco, the audience grew by 47
7 percent and is now the highest-rated Saturday daytime
8 television program including the three majors. In the
9 Fresno area the audience has grown this past year by 117
10 percent, which is signaling that the program has received
11 both urban as well as rural audiences.

12 In addition to education through viewing of
13 the Waste Management's program goals, we have provided a
14 connection from our Heartland web site to your web site.
15 Our web site this last year has grown as quickly as our
16 audience. We average about 55,000 hits per week, and the
17 hot link to your web site is producing another 2,600 and
18 it's growing monthly. These are people that are able to
19 access you and your programs through our web site. I
20 might just mention that after the Vons program aired, we
21 had a number of not only hits, but also letters asking how
22 many other markets also created or had this kind of
23 program.

24 In conclusion, I just say that we view our
25 relationship this past year as being very successful. We

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1 hope that you do, too, and that you will continue into
2 Season 4 with us as a future sponsor or even a major
3 sponsor of Heartland, and we stand ready to help work with
4 you and your staff to educate and communicate to all
5 Californians your program goals. Composting, as well as
6 used oil recycling, farm and ranch clean up, ranch
7 disposal, whatever programs we can be helpful in
8 communicating to the public, we'd be glad to do that.

9 Be glad to answer any questions that you
10 might have.

11 CHAIRMAN EATON: Any questions or comments
12 of Mr. Vice? No. Thank you very much, Mr. Vice.
13 Members --

14 BOARD MEMBER JONES: Mr. Chairman.

15 CHAIRMAN EATON: Mr. Jones. You want us to
16 adjourn?

17 (Laughter)

18 BOARD MEMBER JONES: No, not a motion to
19 adjourn.

20 CHAIRMAN EATON: Let me substitute a motion.

21 (Laughter)

22 BOARD MEMBER JONES: I know you want to
23 leave. I understand. But I think we have to remember
24 that our goal is diversion of 50 percent, and the programs
25 are going to have to facilitate that. The other part of

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1 it is the other 50 percent. I've got two items here that
2 are on this that don't deal with anything more than trying
3 to raise the bar in this state.

4 One of them is the landfill operator
5 certification program, which I'm not going to belabor and
6 I'm not going to spend a lot of time talking about it. We
7 have 158 landfills in the state of California, yet we
8 don't have a standard or training program to help the
9 people that operate those facilities.

10 One of them was Inyo County that was here
11 today. They used to build cells by lining it with C&S and
12 pushing garbage in against that C&D because they did not
13 know how to build a lift which is, sorry to say, pretty
14 basic. You learn that after a while at a landfill.
15 Believe me.

16 There's a problem there, and we need to
17 take our role very seriously in trying to provide that
18 service. I see it was suggested for 50 and 50, and I
19 don't have a problem with that, but I want to spend some
20 time in the next week or if not when we're down in San
21 Luis Obispo to explain that.

22 I had a meeting with Dr. John Skinner, the
23 CEO of SWANA, and his staff to talk about using their
24 existing programs, but having them tailor them to the
25 state of California because our issues are very different

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1 than the rest of the nation, and to provide that kind of
2 training is important. They are willing to work with us.
3 They're not only willing to work with us, they're going to
4 redesign -- not because of California but a little bit
5 because of California -- they're going to redesign what
6 has been a ten-year-old program because we sent it to our
7 staff to critique it, they felt it was outdated, and the
8 instructors talked to the test. We're going to redevelop
9 it.

10 Dr. Skinner made the offer to let us
11 include Waste Board staff in the development of that
12 curriculum. So Mr. Dier has been working on this program,
13 and if this Board so desires when we go through the
14 contract concepts, we have an opportunity to have one of
15 our best employees help design the criteria that's going
16 to help raise the level of expertise in the state of
17 California and how we operate landfills.

18 Remember, it's the citizens of California
19 that are ultimately responsible for the mistakes. When a
20 landfill pollutes, when those things happen, it is the
21 ratepayer that pays that. So we're going to need to do
22 that.

23 And then I'm sorry to see that I had a
24 request in here for a lot of money for a bioreactor, and
25 it doesn't look like we found any money for it. But I

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1 want to tie that -- just so everybody knows what a
2 bioreactor is, it's trying to generate methane gas which
3 is going to come out of a landfill at a more rapid
4 controlled rate so that methane -- you can't get more
5 methane out of garbage than is already there, but you can
6 increase the quality and volume if you manage it
7 correctly.

8 The reason that I want to do this is, one
9 Yolo County has done a very small -- and believe me
10 small -- pilot project which showed that the technology
11 works. They have a great team. Their director is here
12 and I only -- I always butcher your name, and I don't want
13 to do that today. And John Pacey who is considered an
14 expert in the world on gas is part of that time.

15 The reason I'm bringing this up is because
16 Waste Management has always made a commitment that they
17 want to look at 19 facilities, four of them in California,
18 as potential sites.

19 Let me get to the heart of what I want to
20 do. We have a budget change proposal to look at landfills
21 in the state of California and what is the state of those
22 landfills.

23 Now, if we just want to look at are they
24 violating state minimum standards, and this is minimizing
25 what we have to do, but we could basically walk over, push

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1 a couple of buttons on a computer and get a report that
2 spews out every violation, every area of concern for every
3 landfill in the state of California, which if we wanted to
4 put that in a report, we could give that to the
5 legislature and give them a little report card.

6 What we need to do and what we need to be
7 thinking about when we're looking at what is the state of
8 landfills in the state of California is that because of
9 the way we operate landfills, we put in a lift of garbage
10 and we put in dirt. We put in a lift of garbage and put
11 in dirt. We're putting barriers in place so that it
12 cannot organically decompose and generate gas it's going
13 to be able to manage. We're prolonging it and in some
14 cases, depending upon the climatic conditions that exist
15 in a region and the wastestream that's going into a
16 landfill, we may be postponing that gas generation for up
17 to 40 and 50 years, yet our funding for closure-post
18 closure is 30 years.

19 So if we're going to be the leaders in the
20 nation on solid waste management, then I think we need to
21 understand that we have an opportunity here, by getting
22 information as quickly as possible to determine what those
23 gas generation rates will be if we do certain things, and
24 then look at changing what is now, by law, USEPA
25 standards, on how we operate landfills, be able to go to

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1 the USEPA with the information and say in California, we
2 want to think about changing that. We want to look at not
3 just using a prescriptive standard that is statewide, but
4 look through data, through science, through information a
5 better way to minimize impacts to the environment and to
6 the ratepayers in the state of California. We can't do
7 that if we're not going to fund programs that are going to
8 allow us to get that kind of information.

9 So you got my "A" speech right now, but I'm
10 going to keep working on you guys because I think it is
11 important that we take what is a tremendous opportunity
12 for this Board to show real leadership in solid waste
13 management of the other 50 percent and maybe change the
14 way we deal with it. Right now the Water Board wants to
15 look at Yolo County and put a double liner on it. If, in
16 fact, they can't go with an alternative engineered project
17 there, then I wouldn't want to fund Yolo because with two
18 liners, for no specific reason, nobody else is going to
19 follow that criteria because we've added so much money to
20 building the infrastructure of that landfill that nobody
21 is going to do it. It's too cost prohibitive.

22 We need to work with Cal EPA and with the
23 Water Board to make them understand that if we're
24 successful in what we're thinking about here and
25 generating gas quicker and getting it out of the landfill,

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1 we're going to impact positively all the issues that deal
2 with the Air Resources Board in keeping methane out of the
3 ozone, we're going to be dealing with water issues because
4 that gas is not going to have a chance to pollute at some
5 point, and we're going to be dealing with our issues.

6 And God, if that gas could be used in
7 mobile equipment because it's generated at a quicker rate
8 and has higher quality and we eliminate the need for
9 fossil fuel, is that sustainability? I think so. I think
10 that's closing the loop, but we've got to spend money to
11 get there. So I'm going to be pushing hard on this
12 because I see it as an opportunity that is a
13 once-in-a-lifetime opportunity for us to really
14 excel.

15 Thanks for indulging me, Mr. Chairman.

16 CHAIRMAN EATON: As you well know,
17 Mr. Jones, these -- at least from my recollection, I'll
18 speak for myself -- none of the recommendations, or at
19 least the allocations, are anything that I agreed to or
20 anything. I think they're just simply a road map prepared
21 by staff.

22 Ultimately, next week when we sit down,
23 we'll try and bang out the best thing we can. So just
24 keep working, but work with fellow colleagues as well.

25 Mr. Pennington, anything?

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1 Public comment? All right.

2 Without any more comment, stand adjourned

3 until next week.

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1 STATE OF CALIFORNIA

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4 I, Terri L. Emery, CSR 11598, a Certified
5 Shorthand Reporter in and for the State of California, do
6 hereby certify:

7 That the foregoing proceedings were taken
8 down by me in shorthand at the time and place named
9 therein and was thereafter transcribed under my
10 supervision; that this transcript contains a full, true
11 and correct record of the proceedings which took place at
12 the time and place set forth in the caption hereto.

13

14

15 I further certify that I have no interest
16 in the event of the action.

17

18

19 EXECUTED this 20th day of November, 1999.

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Terri L. Emery

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